



House of Representatives

General Assembly

File No. 573

January Session, 2005

Substitute House Bill No. 6985

House of Representatives, April 28, 2005

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ADOPTING REVISED ARTICLE 1 OF THE UNIFORM COMMERCIAL CODE CONCERNING GENERAL PROVISIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42a-1-101 of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) This title [shall be known and] may be cited as the "Uniform
4 Commercial Code".

5 (b) This article may be cited as "Uniform Commercial Code--General
6 Provisions".

7 Sec. 2. Section 42a-1-102 of the general statutes is repealed and the
8 following is substituted in lieu thereof (*Effective October 1, 2005*):

9 [(1) This title shall be liberally construed and applied to promote its
10 underlying purposes and policies.

11 (2) Underlying purposes and policies of this title are (a) to simplify,
12 clarify and modernize the law governing commercial transactions; (b)
13 to permit the continued expansion of commercial practices through
14 custom, usage and agreement of the parties; (c) to make uniform the
15 law among the various jurisdictions.

16 (3) The effect of provisions of this title may be varied by agreement,
17 except as otherwise provided in this title and except that the
18 obligations of good faith, diligence, reasonableness and care prescribed
19 by this title may not be disclaimed by agreement, but the parties may
20 by agreement determine the standards by which the performance of
21 such obligations is to be measured if such standards are not manifestly
22 unreasonable.

23 (4) The presence in certain provisions of this title of the words
24 "unless otherwise agreed" or words of similar import does not imply
25 the effect of other provisions may not be varied by agreement under
26 subsection (3).

27 (5) In this title unless the context otherwise requires, (a) words in the
28 singular number include the plural, and in the plural include the
29 singular; (b) words of the masculine gender include the feminine and
30 the neuter, and when the sense so indicates words of the neuter gender
31 may refer to any gender.]

32 This article applies to a transaction to the extent that it is governed
33 by another article of this title.

34 Sec. 3. Section 42a-1-103 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective October 1, 2005*):

36 (a) This title shall be liberally construed and applied to promote its
37 underlying purposes and policies, which are:

38 (1) To simplify, clarify and modernize the law governing
39 commercial transactions;

40 (2) To permit the continued expansion of commercial practices

41 through custom, usage and agreement of the parties; and

42 (3) To make uniform the law among the various jurisdictions.

43 (b) Unless displaced by the particular provisions of this title, the
44 principles of law and equity, including the law merchant and the law
45 relative to capacity to contract, principal and agent, estoppel, fraud,
46 misrepresentation, duress, coercion, mistake, bankruptcy, [or] and
47 other validating or invalidating cause [shall] supplement its
48 provisions.

49 Sec. 4. Section 42a-1-105 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2005*):

51 [(1) Except as provided hereafter in this section, when a transaction
52 bears a reasonable relation to this state and also to another state or
53 nation the parties may agree that the law either of this state or of such
54 other state or nation shall govern their rights and duties. Failing such
55 agreement this title applies to transactions bearing an appropriate
56 relation to this state.

57 (2) Where one of the following provisions of this title specifies the
58 applicable law, that provision governs and a contrary agreement is
59 effective only to the extent permitted by the law, including the conflict
60 of laws rules, so specified:

- T1 Rights of creditors against sold goods. Section 42a-2-402.
- T2 Applicability of the article on leases. Sections 42a-2A-105 and
- T3 42a-2A-106.
- T4 Applicability of the article on bank deposits and collections.
- T5 Section 42a-4-102.
- T6 Governing law in the article on funds transfers. Section
- T7 42a-4A-507.
- T8 Letters of credit. Section 42a-5-116.
- T9 Applicability of the article on investment securities. Section

T10 42a-8-110.
T11 Law governing perfection, the effect of perfection or
T12 nonperfection and the priority of security interests and
T13 agricultural liens. Sections 42a-9-301 to 42a-9-307, inclusive.]

61 If any provision or clause of this title or its application to any person
62 or circumstance is held invalid, the invalidity does not affect other
63 provisions or applications of this title which can be given effect
64 without the invalid provision or application, and to this end the
65 provisions of this title are severable.

66 Sec. 5. Section 42a-1-106 of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective October 1, 2005*):

68 [(1) The remedies provided by this title shall be liberally
69 administered to the end that the aggrieved party may be put in as
70 good a position as if the other party had fully performed but neither
71 consequential or special nor penal damages may be had except as
72 specifically provided in this title or by other rule of law.

73 (2) Any right or obligation declared by this title is enforceable by
74 action unless the provision declaring it specifies a different and limited
75 effect.]

76 In this title, unless the statutory context otherwise requires:

77 (1) Words in the singular number include the plural, and those in
78 the plural include the singular; and

79 (2) Words of any gender also refer to any other gender.

80 Sec. 6. (NEW) (*Effective October 1, 2005*) Article 1 of title 42a of the
81 general statutes, as amended by this act, modifies, limits and
82 supersedes the federal Electronic Signatures in Global and National
83 Commerce Act, 15 USC 7001 et seq., except that nothing in article 1 of
84 title 42a of the general statutes, as amended by this act, modifies, limits
85 or supersedes Section 101(c) of that act, 15 USC 7001(c), or authorizes

86 electronic delivery of any of the notices described in Section 103(b) of
87 that act, 15 USC 7003(b).

88 Sec. 7. Section 42a-1-201 of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2005*):

90 (a) Unless the context otherwise requires, words or phrases defined
91 in this section, or in the additional definitions contained in other
92 articles of this title that apply to particular articles or parts thereof,
93 have the meanings stated.

94 (b) Subject to [additional] definitions contained in [the subsequent
95 articles of this title which are applicable to specific articles or parts
96 thereof, and unless the context otherwise requires] other articles of this
97 title that apply to particular articles or parts thereof, in this title:

98 (1) "Action", in the sense of a judicial proceeding, includes
99 recoupment, counterclaim, set-off, suit in equity and any other
100 [proceedings] proceeding in which rights are determined.

101 (2) "Aggrieved party" means a party entitled to [resort to] pursue a
102 remedy.

103 (3) "Agreement", as distinguished from "contract", means the
104 bargain of the parties in fact, as found in their language or [by
105 implication] inferred from other circumstances, including course of
106 [dealing or usage of trade or course of performance as provided in
107 sections 42a-1-205 and 42a-2-208. Whether an agreement has legal
108 consequences is determined by the provisions of this title, if applicable;
109 otherwise by the law of contracts] performance, course of dealing or
110 usage of trade as provided in section 15 of this act.

111 (4) "Bank" means any person engaged in the business of banking
112 and includes a savings bank, savings and loan association, credit union
113 and trust company.

114 (5) "Bearer" means a person in control of a negotiable electronic
115 document of title or a person in possession of an instrument, a

116 negotiable tangible document of title, or a certificated security payable
117 to bearer or endorsed in blank.

118 (6) "Bill of lading" means a document of title evidencing the receipt
119 of goods for shipment issued by a person engaged in the business of
120 directly or indirectly transporting or forwarding goods. The term does
121 not include a warehouse receipt.

122 (7) "Branch" includes a separately incorporated foreign branch of a
123 bank.

124 (8) ["Burden of establishing of a fact"] "Burden of establishing" a fact
125 means the burden of persuading the [triers] trier of fact that the
126 existence of the fact is more probable than its nonexistence.

127 (9) "Buyer in ordinary course of business" means a person that buys
128 goods in good faith, without knowledge that the sale violates the rights
129 of another person in the goods, and in the ordinary course from a
130 person, other than a pawnbroker, in the business of selling goods of
131 that kind. A person buys goods in the ordinary course if the sale to the
132 person comports with the usual or customary practices in the kind of
133 business in which the seller is engaged or with the seller's own usual
134 or customary practices. A person that sells oil, gas or other minerals at
135 the wellhead or minehead is a person in the business of selling goods
136 of that kind. A buyer in [the] ordinary course of business may buy for
137 cash, by exchange of other property or on secured or unsecured credit,
138 and may acquire goods or documents of title under a preexisting
139 contract for sale. Only a buyer that takes possession of the goods or has
140 a right to recover the goods from the seller under article 2 may be a
141 buyer in ordinary course of business. [A] "Buyer in ordinary course of
142 business" does not include a person that acquires goods in a transfer in
143 bulk or as security for or in total or partial satisfaction of a money debt,
144 [is not a buyer in ordinary course of business.]

145 (10) "Conspicuous", with reference to a term, means so written,
146 displayed or presented that a reasonable person against which it is to
147 operate ought to have noticed it. Whether a term is "conspicuous" or

148 not is a decision for the court. Conspicuous terms include the
149 following:

150 (A) A heading in capitals equal to or greater in size than the
151 surrounding text, or in contrasting type, font or color to the
152 surrounding text of the same or lesser size; and

153 (B) Language in the body of a record or display in larger type than
154 the surrounding text, or in contrasting type, font or color to the
155 surrounding text of the same size, or set off from surrounding text of
156 the same size by symbols or other marks that call attention to the
157 language.

158 (11) "Consumer" means an individual who enters into a transaction
159 primarily for personal, family or household purposes.

160 [(11)] (12) "Contract", as distinguished from "agreement", means the
161 total legal obligation [which] that results from the parties' agreement
162 as [affected] determined by this title [and] as supplemented by any
163 other applicable [rules of law] laws.

164 [(12)] (13) "Creditor" includes a general creditor, a secured creditor,
165 a lien creditor and any representative of creditors, including an
166 assignee for the benefit of creditors, a trustee in bankruptcy, a receiver
167 in equity and an executor or administrator of an insolvent debtor's or
168 assignor's estate.

169 [(13)] (14) "Defendant" includes a person in the position of
170 defendant in a [cross-action or] counterclaim, cross-claim or third-
171 party claim.

172 [(14)] (15) "Delivery" with respect to an electronic document of title
173 means voluntary transfer of control and with respect to instruments,
174 tangible documents of title, chattel paper, or certificated securities
175 means voluntary transfer of possession.

176 [(15)] (16) "Document of title" means a record (A) that in the regular
177 course of business or financing is treated as adequately evidencing that

178 the person in possession or control of the record is entitled to receive,
179 control, hold and dispose of the record and the goods the record
180 covers, and (B) that purports to be issued by or addressed to a bailee
181 and to cover goods in the bailee's possession which are either
182 identified or are fungible portions of an identified mass. The term
183 includes a bill of lading, transport document, dock warrant, dock
184 receipt, warehouse receipt and order for delivery of goods. An
185 electronic document of title means a document of title evidenced by a
186 record consisting of information stored in an electronic medium. A
187 tangible document of title means a document of title evidenced by a
188 record consisting of information that is inscribed on a tangible
189 medium.

190 [(16)] (17) "Fault" means [wrongful act, omission or breach] a
191 default, breach or wrongful act or omission.

192 [(17) "Fungible" with respect to goods or securities means goods or
193 securities of which any unit is, by nature or usage of trade, the
194 equivalent of any other like unit. Goods which are not fungible shall be
195 deemed fungible for the purposes of this title to the extent that under a
196 particular agreement or document unlike units are treated as
197 equivalents.]

198 (18) "Fungible goods" means:

199 (A) Goods of which any unit, by nature or usage of trade, is the
200 equivalent of any other like unit; or

201 (B) Goods that by agreement are treated as equivalent.

202 [(18)] (19) "Genuine" means free of forgery or counterfeiting.

203 [(19)] (20) "Good faith" means honesty in fact [in the conduct or
204 transaction concerned] and the observance of reasonable commercial
205 standards of fair dealing.

206 [(20)] (21) "Holder" means:

207 (A) The person in possession of a negotiable instrument that is
208 payable either to bearer or to an identified person that is the person in
209 possession;

210 (B) The person in possession of a negotiable tangible document of
211 title if the goods are deliverable either to bearer or to the order of the
212 person in possession; or

213 (C) The person in control of a negotiable electronic document of
214 title.

215 [(21) To "honor" is to pay or to accept and pay, or where a credit so
216 engages to purchase or discount a draft complying with the terms of
217 the credit.]

218 (22) ["Insolvency proceedings"] "Insolvency proceeding" includes
219 [any] an assignment for the benefit of creditors or other [proceedings]
220 proceeding intended to liquidate or rehabilitate the estate of the person
221 involved.

222 (23) [A person is "insolvent" who either has ceased to pay his debts
223 in the ordinary course of business or cannot pay his debts as they
224 become due or is insolvent within the meaning of the federal
225 bankruptcy law] "Insolvent" means:

226 (A) Having generally ceased to pay debts in the ordinary course of
227 business other than as a result of bona fide dispute;

228 (B) Being unable to pay debts as they become due; or

229 (C) Being insolvent within the meaning of federal bankruptcy law.

230 (24) "Money" means a medium of exchange currently authorized or
231 adopted by a domestic or foreign government. [and] The term includes
232 a monetary unit of account established by an intergovernmental
233 organization or by agreement between two or more [nations]
234 countries.

235 [(25) Subject to subdivision (27) of this section, a person has "notice"

236 of a fact if the person:

237 (A) Has actual knowledge of it;

238 (B) Has received a notice or notification of it; or

239 (C) From all the facts and circumstances known to the person at the
240 time in question, has reason to know that it exists. A person "knows" or
241 has "knowledge" of a fact when the person has actual knowledge of it.
242 "Discover" or "learn" or a word or phrase of similar import refers to
243 knowledge rather than to reason to know. The time and circumstances
244 under which a notice or notification may cease to be effective are not
245 determined by this title.

246 (26) A person "notifies" or "gives" a notice or notification to another
247 person by taking such steps as may be reasonably required to inform
248 the other person in ordinary course, whether or not the other person
249 actually comes to know of it. Subject to subdivision (27) of this section,
250 a person "receives" a notice or notification when:

251 (A) It comes to that person's attention; or

252 (B) It is duly delivered in a form reasonable under the circumstances
253 at the place of business through which the contract was made or at
254 another location held out by that person as the place for receipt of such
255 communications.

256 (27) Notice, knowledge or a notice or notification received by an
257 organization is effective for a particular transaction from the time
258 when it is brought to the attention of the individual conducting that
259 transaction, and in any event, from the time when it would have been
260 brought to the individual's attention if the organization had exercised
261 due diligence. An organization exercises due diligence if it maintains
262 reasonable routines for communicating significant information to the
263 person conducting the transaction and there is reasonable compliance
264 with the routines. Due diligence does not require an individual acting
265 for the organization to communicate information unless such
266 communication is part of the individual's regular duties or the

267 individual has reason to know of the transaction and that the
268 transaction would be materially affected by the information.]

269 [(28)] (25) "Organization" [includes a corporation, government or
270 governmental subdivision or agency, business trust, estate, trust,
271 partnership or association, two or more persons having a joint or
272 common interest, or any other legal or commercial entity] means a
273 person other than an individual.

274 [(29)] (26) "Party", as [distinct] distinguished from "third party",
275 means a person [who] that has engaged in a transaction or made an
276 agreement [within] subject to this title.

277 [(30)] (27) "Person" [includes an individual or an organization]
278 means an individual, corporation, business trust, estate, trust,
279 partnership, limited liability company, association, joint venture,
280 government, governmental subdivision, agency or instrumentality,
281 public corporation or any other legal or commercial entity.

282 [(31) "Presumption" or "presumed" means that the trier of fact must
283 find the existence of the fact presumed unless and until evidence is
284 introduced which would support a finding of its nonexistence.]

285 (28) "Present value" means the amount as of a date certain of one or
286 more sums payable in the future, discounted to the date certain by use
287 of either an interest rate specified by the parties if that rate is not
288 manifestly unreasonable at the time the transaction is entered into or, if
289 an interest rate is not so specified, a commercially reasonable rate that
290 takes into account the facts and circumstances at the time the
291 transaction is entered into.

292 [(32)] (29) "Purchase" [includes] means taking by sale, lease,
293 discount, negotiation, mortgage, pledge, lien, security interest, issue or
294 reissue, gift or any other voluntary transaction creating an interest in
295 property.

296 [(33)] (30) "Purchaser" means a person [who] that takes by purchase.

297 (31) "Record" means information that is inscribed on a tangible
298 medium or that is stored in an electronic or other medium and is
299 retrievable in perceivable form.

300 [(34)] (32) "Remedy" means any remedial right to which an
301 aggrieved party is entitled with or without resort to a tribunal.

302 [(35)] (33) "Representative" [includes an agent, an officer of a
303 corporation or association, and a trustee, executor or administrator of
304 an estate, or any other] means a person empowered to act for another,
305 including an agent, an officer of a corporation or association, and a
306 trustee, executor or administrator of an estate.

307 [(36) "Rights" include remedies.]

308 (34) "Right" includes remedy.

309 [(37)] (35) "Security interest" means an interest in personal property
310 or fixtures which secures payment or performance of an obligation.
311 [The term also] "Security interest" includes any interest of a consignor
312 and a buyer of accounts, chattel paper, a payment intangible or a
313 promissory note in a transaction that is subject to article 9. [The]
314 "Security interest" does not include the special property interest of a
315 buyer of goods on identification of such goods to a contract for sale
316 under section 42a-2-401, [is not a "security interest",] but a buyer may
317 also acquire a "security interest" by complying with article 9. Except as
318 otherwise provided in section 42a-2-505, the right of a seller or lessor of
319 goods under article 2 or 2A to retain or acquire possession of the goods
320 is not a "security interest", but a seller or lessor may also acquire a
321 "security interest" by complying with article 9. The retention or
322 reservation of title by a seller of goods, notwithstanding shipment or
323 delivery to the buyer [pursuant to] under section 42a-2-401, is limited
324 in effect to a reservation of a "security interest". Whether a transaction
325 [creates a lease or a "security interest" is determined by the facts of
326 each case; however, a transaction creates a "security interest" if the
327 consideration the lessee is to pay the lessor for the right to possession
328 and use of the goods is an obligation for the term of the lease not

329 subject to termination by the lessee, and (a) the original term of the
330 lease is equal to or greater than the remaining economic life of the
331 goods, (b) the lessee is bound to renew the lease for the remaining
332 economic life of the goods or is bound to become owner of the goods,
333 (c) the lessee has an option to renew the lease for the remaining
334 economic life of the goods for no additional consideration or nominal
335 additional consideration upon compliance with the lease agreement, or
336 (d) the lessee has an option to become the owner of the goods for no
337 additional consideration or nominal additional consideration upon
338 compliance with the lease agreement. A transaction does not create a
339 "security interest" merely because it provides that (A) the present value
340 of the consideration the lessee is obligated to pay the lessor for the
341 right to possession and use of the goods is substantially equal to or is
342 greater than the fair market value of the goods at the time the lease is
343 entered into, (B) the lessee assumes risk of loss of the goods, or agrees
344 to pay taxes, insurance, filing, recording or registration fees, or service
345 or maintenance costs with respect to the goods, (C) the lessee has an
346 option to renew the lease or to become the owner of the goods, (D) the
347 lessee has an option to renew the lease for a fixed rent that is equal to
348 or greater than the reasonably predictable fair market rent for the use
349 of the goods for the term of the renewal at the time the option is to be
350 performed, or (E) the lessee has an option to become the owner of the
351 goods for a fixed price that is equal to or greater than the reasonably
352 predictable fair market value of the goods at the time the option is to
353 be performed. For the purposes of this subdivision: (i) Additional
354 consideration is not nominal if (I) when the option to renew the lease is
355 granted to the lessee, the rent is stated to be the fair market rent for the
356 use of the goods for the term of the renewal determined at the time the
357 option is to be performed, or (II) when the option to become the owner
358 of the goods is granted to the lessee, the price is stated to be the fair
359 market value of the goods determined at the time the option is to be
360 performed; (ii) additional consideration is nominal if it is less than the
361 lessee's reasonably predictable cost of performing under the lease
362 agreement if the option is not exercised; (iii) "reasonably predictable"
363 and "remaining economic life of the goods" are to be determined with

reference to the facts and circumstances at the time the transaction is entered into; and (iv) "present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into] in the form of a lease creates a "security interest" is determined pursuant to section 42a-1-203, as amended by this act.

[(38)] (36) "Send" in connection with a writing, record or notice means:

(A) To deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

(B) In any other way to cause to be received any record or notice within the time it would have arrived if properly sent.

[(39)] (37) "Signed" includes using any symbol executed or adopted [by a party] with present intention to [authenticate] adopt or accept a writing.

(38) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

[(40)] (39) "Surety" includes a guarantor or other secondary obligor.

[(41)] "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.]

[(42)] (40) "Term" means [that] a portion of an agreement [which]

394 that relates to a particular matter.

395 [(43)] ~~(41)~~ "Unauthorized signature" means [one] a signature made
396 without actual, implied, or apparent authority. [and] The term
397 includes a forgery.

398 [(44)] "Value". Except as otherwise provided by sections 42a-3-303,
399 42a-4-210 and 42a-4-211 with respect to negotiable instruments and
400 bank collections a person gives "value" for rights if he acquires them
401 (a) in return for a binding commitment to extend credit or for the
402 extension of immediately available credit whether or not drawn upon
403 and whether or not a charge-back is provided for in the event of
404 difficulties in collection; or (b) as security for or in total or partial
405 satisfaction of a preexisting claim; or (c) by accepting delivery
406 pursuant to a preexisting contract for purchase; or (d) generally, in
407 return for any consideration sufficient to support a simple contract.]

408 [(45)] ~~(42)~~ "Warehouse receipt" means a document of title issued by
409 a person engaged in the business of storing goods for hire.

410 [(46)] ~~(43)~~ "Written" or "writing" includes printing, typewriting or
411 any other intentional reduction to tangible form.

412 Sec. 8. Section 42a-1-202 of the general statutes is repealed and the
413 following is substituted in lieu thereof (*Effective October 1, 2005*):

414 [A document in due form purporting to be a bill of lading, policy or
415 certificate of insurance, official weigher's or inspector's certificate,
416 consular invoice, or any other document authorized or required by the
417 contract to be issued by a third party shall be prima facie evidence of
418 its own authenticity and genuineness and of the facts stated in the
419 document by the third party.]

420 (a) Subject to subsection (f) of this section, a person has "notice" of a
421 fact if the person:

422 (1) Has actual knowledge of it;

423 (2) Has received a notice or notification of it; or

424 (3) From all the facts and circumstances known to the person at the
425 time in question, has reason to know that it exists.

426 (b) "Knowledge" or "knows" means actual knowledge.

427 (c) "Discover", "learn" or words of similar import refer to knowledge
428 rather than to reason to know.

429 (d) A person "notifies" or "gives" a notice or notification to another
430 person by taking such steps as may be reasonably required to inform
431 the other person in ordinary course, whether or not the other person
432 actually comes to know of it.

433 (e) Subject to subsection (f) of this section, a person "receives" a
434 notice or notification when:

435 (1) It comes to that person's attention; or

436 (2) It is duly delivered in a form reasonable under the circumstances
437 at the place of business through which the contract was made or at
438 another location held out by that person as the place for receipt of such
439 communications.

440 (f) Notice, knowledge or a notice or notification received by an
441 organization is effective for a particular transaction from the time it is
442 brought to the attention of the individual conducting that transaction
443 and, in any event, from the time it would have been brought to the
444 individual's attention if the organization had exercised due diligence.
445 An organization exercises due diligence if it maintains reasonable
446 routines for communicating significant information to the person
447 conducting the transaction and there is reasonable compliance with the
448 routines. Due diligence does not require an individual acting for the
449 organization to communicate information unless the communication is
450 part of the individual's regular duties or the individual has reason to
451 know of the transaction and that the transaction would be materially
452 affected by the information.

453 Sec. 9. Section 42a-1-203 of the general statutes is repealed and the
454 following is substituted in lieu thereof (*Effective October 1, 2005*):

455 [Every contract or duty within this title imposes an obligation of
456 good faith in its performance or enforcement.]

457 (a) Whether a transaction in the form of a lease creates a lease or a
458 security interest is determined by the facts of each case.

459 (b) A transaction in the form of a lease creates a security interest if
460 the consideration that the lessee is to pay the lessor for the right to
461 possession and use of the goods is an obligation for the term of the
462 lease and is not subject to termination by the lessee, and:

463 (1) The original term of the lease is equal to or greater than the
464 remaining economic life of the goods;

465 (2) The lessee is bound to renew the lease for the remaining
466 economic life of the goods or is bound to become the owner of the
467 goods;

468 (3) The lessee has an option to renew the lease for the remaining
469 economic life of the goods for no additional consideration or for
470 nominal additional consideration upon compliance with the lease
471 agreement; or

472 (4) The lessee has an option to become the owner of the goods for no
473 additional consideration or for nominal additional consideration upon
474 compliance with the lease agreement.

475 (c) A transaction in the form of a lease does not create a security
476 interest merely because:

477 (1) The present value of the consideration the lessee is obligated to
478 pay the lessor for the right to possession and use of the goods is
479 substantially equal to or is greater than the fair market value of the
480 goods at the time the lease is entered into;

481 (2) The lessee assumes risk of loss of the goods;

482 (3) The lessee agrees to pay, with respect to the goods, taxes,
483 insurance, filing, recording or registration fees, or service or
484 maintenance costs;

485 (4) The lessee has an option to renew the lease or to become the
486 owner of the goods;

487 (5) The lessee has an option to renew the lease for a fixed rent that is
488 equal to or greater than the reasonably predictable fair market rent for
489 the use of the goods for the term of the renewal at the time the option
490 is to be performed; or

491 (6) The lessee has an option to become the owner of the goods for a
492 fixed price that is equal to or greater than the reasonably predictable
493 fair market value of the goods at the time the option is to be
494 performed.

495 (d) Additional consideration is nominal if it is less than the lessee's
496 reasonably predictable cost of performing under the lease agreement if
497 the option is not exercised. Additional consideration is not nominal if:

498 (1) When the option to renew the lease is granted to the lessee, the
499 rent is stated to be the fair market rent for the use of the goods for the
500 term of the renewal determined at the time the option is to be
501 performed; or

502 (2) When the option to become the owner of the goods is granted to
503 the lessee, the price is stated to be the fair market value of the goods
504 determined at the time the option is to be performed.

505 (e) The "remaining economic life of the goods" and "reasonably
506 predictable" fair market rent, fair market value or cost of performing
507 under the lease agreement must be determined with reference to the
508 facts and circumstances at the time the transaction is entered into.

509 Sec. 10. Section 42a-1-204 of the general statutes is repealed and the
510 following is substituted in lieu thereof (*Effective October 1, 2005*):

511 [(1) Whenever this title requires any action to be taken within a
512 reasonable time, any time which is not manifestly unreasonable may
513 be fixed by agreement.

514 (2) What is a reasonable time for taking any action depends on the
515 nature, purpose and circumstances of such action.

516 (3) An action is taken "seasonably" when it is taken at or within the
517 time agreed or if no time is agreed at or within a reasonable time.]

518 Except as otherwise provided in articles 3, 4 and 5, a person gives
519 value for rights if the person acquires them:

520 (1) In return for a binding commitment to extend credit or for the
521 extension of immediately available credit, whether or not drawn upon
522 and whether or not a charge-back is provided for in the event of
523 difficulties in collection;

524 (2) As security for, or in total or partial satisfaction of, a preexisting
525 claim;

526 (3) By accepting delivery under a preexisting contract for purchase;
527 or

528 (4) In return for any consideration sufficient to support a simple
529 contract.

530 Sec. 11. Section 42a-1-205 of the general statutes is repealed and the
531 following is substituted in lieu thereof (*Effective October 1, 2005*):

532 [(1) A course of dealing is a sequence of previous conduct between
533 the parties to a particular transaction which is fairly to be regarded as
534 establishing a common basis of understanding for interpreting their
535 expressions and other conduct.

536 (2) A usage of trade is any practice or method of dealing having
537 such regularity of observance in a place, vocation or trade as to justify
538 an expectation that it will be observed with respect to the transaction
539 in question. The existence and scope of such a usage are to be proved

540 as facts. If it is established that such a usage is embodied in a written
541 trade code or similar writing the interpretation of the writing is for the
542 court.

543 (3) A course of dealing between parties and any usage of trade in
544 the vocation or trade in which they are engaged or of which they are or
545 should be aware give particular meaning to and supplement or qualify
546 terms of an agreement.

547 (4) The express terms of an agreement and an applicable course of
548 dealing or usage of trade shall be construed wherever reasonable as
549 consistent with each other; but when such construction is unreasonable
550 express terms control both course of dealing and usage of trade and
551 course of dealing controls usage of trade.

552 (5) An applicable usage of trade in the place where any part of
553 performance is to occur shall be used in interpreting the agreement as
554 to that part of the performance.

555 (6) Evidence of a relevant usage of trade offered by one party is not
556 admissible unless and until he has given the other party such notice as
557 the court finds sufficient to prevent unfair surprise to the latter.]

558 (a) Whether a time for taking an action required by this title is
559 reasonable depends on the nature, purpose and circumstances of the
560 action.

561 (b) An action is taken seasonably if it is taken at or within the time
562 agreed or, if no time is agreed, at or within a reasonable time.

563 Sec. 12. Section 42a-1-206 of the general statutes is repealed and the
564 following is substituted in lieu thereof (*Effective October 1, 2005*):

565 [(1) Except in the cases described in subsection (2) of this section a
566 contract for the sale of personal property is not enforceable by way of
567 action or defense beyond five thousand dollars in amount or value of
568 remedy unless there is some writing which indicates that a contract for
569 sale has been made between the parties at a defined or stated price,

570 reasonably identifies the subject matter, and is signed by the party
571 against whom enforcement is sought or by his authorized agent.

572 (2) Subsection (1) of this section does not apply to contracts for the
573 sale of goods nor of securities nor to security agreements.]

574 Whenever this title creates a "presumption" with respect to a fact, or
575 provides that a fact is "presumed", the trier of fact must find the
576 existence of the fact unless and until evidence is introduced that
577 supports a finding of its nonexistence.

578 Sec. 13. (NEW) (*Effective October 1, 2005*) (a) In this section:

579 (1) "Domestic transaction" means a transaction other than an
580 international transaction.

581 (2) "International transaction" means a transaction that bears a
582 reasonable relation to a country other than the United States.

583 (b) This section applies to a transaction to the extent that it is
584 governed by another article of title 42a of the general statutes.

585 (c) Except as otherwise provided in this section:

586 (1) An agreement by parties to a domestic transaction that any or all
587 of their rights and obligations are to be determined by the law of this
588 state or of another state is effective if the transaction bears a reasonable
589 relation to the state designated; and

590 (2) An agreement by parties to an international transaction that any
591 or all of their rights and obligations are to be determined by the law of
592 this state or of another state or country is effective if the transaction
593 bears a reasonable relation to the state or country designated.

594 (d) In the absence of an agreement effective under subsection (c) of
595 this section, and except as provided in subsections (e) and (g) of this
596 section, the rights and obligations of the parties are determined by the
597 law that would be selected by application of this state's conflict of laws
598 principles.

599 (e) If one of the parties to a transaction is a consumer, application of
600 the law of the state or country determined pursuant to subsection (c) or
601 (d) of this section may not deprive the consumer of the protection of
602 any rule of law governing a matter within the scope of this section,
603 which is both protective of consumers and may not be varied by
604 agreement:

605 (1) Of the state or country in which the consumer principally
606 resides, unless subdivision (2) of this subsection applies; or

607 (2) If the transaction is a sale of goods, of the state or country in
608 which the consumer both makes the contract and takes delivery of
609 such goods, if such state or country is not the state or country in which
610 the consumer principally resides.

611 (f) An agreement otherwise effective under subsection (c) of this
612 section is not effective to the extent that application of the law of the
613 state or country designated would be contrary to a fundamental policy
614 of the state or country whose law would govern in the absence of
615 agreement under subsection (d) of this section.

616 (g) To the extent that title 42a of the general statutes governs a
617 transaction, if one of the following provisions of title 42a of the general
618 statutes specifies the applicable law, that provision governs and a
619 contrary agreement is effective only to the extent permitted by the law
620 so specified:

621 (1) Section 42a-2-402 of the general statutes, as amended by this act;

622 (2) Sections 42a-2A-105 and 42a-2A-106 of the general statutes;

623 (3) Section 42a-4-102 of the general statutes;

624 (4) Section 42a-4A-507 of the general statutes;

625 (5) Section 42a-5-116 of the general statutes;

626 (6) Section 42a-8-110 of the general statutes;

627 (7) Sections 42a-9-301 to 42a-9-307, inclusive, of the general statutes.

628 Sec. 14. (NEW) (*Effective October 1, 2005*) (a) Except as otherwise
629 provided in subsection (b) of this section or elsewhere in title 42a of the
630 general statutes, the effect of provisions of title 42a of the general
631 statutes may be varied by agreement.

632 (b) The obligations of good faith, diligence, reasonableness and care
633 prescribed by title 42a of the general statutes may not be disclaimed by
634 agreement. The parties, by agreement, may determine the standards by
635 which the performance of such obligations is to be measured if such
636 standards are not manifestly unreasonable. Whenever title 42a of the
637 general statutes requires an action to be taken within a reasonable
638 time, a time that is not manifestly unreasonable may be fixed by
639 agreement.

640 (c) The presence in certain provisions of title 42a of the general
641 statutes of the phrase "unless otherwise agreed", or words of similar
642 import, does not imply that the effect of other provisions may not be
643 varied by agreement under this section.

644 Sec. 15. (NEW) (*Effective October 1, 2005*) (a) A "course of
645 performance" is a sequence of conduct between the parties to a
646 particular transaction that exists if:

647 (1) The agreement of the parties with respect to the transaction
648 involves repeated occasions for performance by a party; and

649 (2) The other party, with knowledge of the nature of the
650 performance and opportunity for objection to it, accepts the
651 performance or acquiesces in it without objection.

652 (b) A "course of dealing" is a sequence of conduct concerning
653 previous transactions between the parties to a particular transaction
654 that is fairly to be regarded as establishing a common basis of
655 understanding for interpreting their expressions and other conduct.

656 (c) A "usage of trade" is any practice or method of dealing having

657 such regularity of observance in a place, vocation or trade as to justify
658 an expectation that it will be observed with respect to the transaction
659 in question. The existence and scope of such a usage must be proved as
660 facts. If it is established that such a usage is embodied in a trade code
661 or similar record, the interpretation of the record is a question of law.

662 (d) A course of performance or course of dealing between the
663 parties or usage of trade in the vocation or trade in which they are
664 engaged or of which they are or should be aware is relevant in
665 ascertaining the meaning of the parties' agreement, may give particular
666 meaning to specific terms of the agreement and may supplement or
667 qualify the terms of the agreement. A usage of trade applicable in the
668 place in which part of the performance under the agreement is to occur
669 may be so utilized as to that part of the performance.

670 (e) Except as otherwise provided in subsection (f) of this section, the
671 express terms of an agreement and any applicable course of
672 performance, course of dealing or usage of trade must be construed
673 whenever reasonable as consistent with each other. If such a
674 construction is unreasonable:

675 (1) Express terms prevail over course of performance, course of
676 dealing and usage of trade;

677 (2) Course of performance prevails over course of dealing and usage
678 of trade; and

679 (3) Course of dealing prevails over usage of trade.

680 (f) Subject to section 42a-2-209 of the general statutes, a course of
681 performance is relevant to show a waiver or modification of any term
682 inconsistent with the course of performance.

683 (g) Evidence of a relevant usage of trade offered by one party is not
684 admissible unless that party has given the other party notice that the
685 court finds sufficient to prevent unfair surprise to the other party.

686 Sec. 16. (NEW) (*Effective October 1, 2005*) Every contract or duty

687 within title 42a of the general statutes imposes an obligation of good
688 faith in its performance and enforcement.

689 Sec. 17. (NEW) (*Effective October 1, 2005*) (a) The remedies provided
690 by title 42a of the general statutes must be liberally administered to the
691 end that the aggrieved party may be put in as good a position as if the
692 other party had fully performed, but neither consequential or special
693 damages nor penal damages may be had except as specifically
694 provided in title 42a of the general statutes or by other rule of law.

695 (b) Any right or obligation declared by title 42a of the general
696 statutes is enforceable by action unless the provision declaring it
697 specifies a different and limited effect.

698 Sec. 18. (NEW) (*Effective October 1, 2005*) A claim or right arising out
699 of an alleged breach may be discharged in whole or in part without
700 consideration by agreement of the aggrieved party in an authenticated
701 record.

702 Sec. 19. (NEW) (*Effective October 1, 2005*) A document in due form
703 purporting to be a bill of lading, policy or certificate of insurance,
704 official weigher's or inspector's certificate, consular invoice, or any
705 other document authorized or required by the contract to be issued by
706 a third party is prima facie evidence of its own authenticity and
707 genuineness and of the facts stated in the document by the third party.

708 Sec. 20. (NEW) (*Effective October 1, 2005*) (a) A party that, with
709 explicit reservation of rights, performs or promises performance or
710 assents to performance in a manner demanded or offered by the other
711 party does not thereby prejudice the rights reserved. Such words as
712 "without prejudice", "under protest" or the like are sufficient.

713 (b) Subsection (a) of this section does not apply to an accord and
714 satisfaction.

715 Sec. 21. (NEW) (*Effective October 1, 2005*) A term providing that one
716 party or that party's successor in interest may accelerate payment or
717 performance or require collateral or additional collateral "at will" or

718 when the party "deems itself insecure", or words of similar import,
719 means that the party has power to do so only if that party in good faith
720 believes that the prospect of payment or performance is impaired. The
721 burden of establishing lack of good faith is on the party against which
722 the power has been exercised.

723 Sec. 22. (NEW) (*Effective October 1, 2005*) An obligation may be
724 issued as subordinated to performance of another obligation of the
725 person obligated, or a creditor may subordinate its right to
726 performance of an obligation by agreement with either the person
727 obligated or another creditor of the person obligated. Subordination
728 does not create a security interest as against either the common debtor
729 or a subordinated creditor.

730 Sec. 23. Subsection (1) of section 42a-2-103 of the general statutes is
731 repealed and the following is substituted in lieu thereof (*Effective*
732 *October 1, 2005*):

733 (1) In this article unless the context otherwise requires: (a) "Buyer"
734 means a person who buys or contracts to buy goods. [(b) "Good faith"
735 in the case of a merchant means honesty in fact and the observance of
736 reasonable commercial standards of fair dealing in the trade. (c)] (b)
737 "Receipt" of goods means taking physical possession of them. [(d)] (c)
738 "Seller" means a person who sells or contracts to sell goods.

739 Sec. 24. Section 42a-2-202 of the general statutes is repealed and the
740 following is substituted in lieu thereof (*Effective October 1, 2005*):

741 Terms with respect to which the confirmatory memoranda of the
742 parties agree or which are otherwise set forth in a writing intended by
743 the parties as a final expression of their agreement with respect to such
744 terms as are included therein may not be contradicted by evidence of
745 any prior agreement or of a contemporaneous oral agreement but may
746 be explained or supplemented (a) by course of performance, course of
747 dealing or usage of trade as provided by section [42a-1-205 or by
748 course of performance as provided by section 42a-2-208] 15 of this act;
749 and (b) by evidence of consistent additional terms unless the court

750 finds the writing to have been intended also as a complete and
751 exclusive statement of the terms of the agreement.

752 Sec. 25. Subsection (3) of section 42a-2-402 of the general statutes is
753 repealed and the following is substituted in lieu thereof (*Effective*
754 *October 1, 2005*):

755 (3) When a seller remains in possession of goods which have been
756 sold or identified to a contract for sale or of goods which, after sale,
757 have been leased back to him, the buyer or lessor of such goods may
758 protect his interest by complying with the filing provisions of article 9.
759 On compliance the buyer or lessor has, against creditors of and
760 purchasers from the seller, the rights of a secured party with a
761 perfected security interest. Such filing does not, of itself, make the
762 interest of the buyer or lessor a security interest, as defined by
763 [subsection (37)] subdivision (35) of subsection (b) of section 42a-1-201,
764 as amended by this act.

765 Sec. 26. Section 42a-2A-102 of the general statutes is repealed and
766 the following is substituted in lieu thereof (*Effective October 1, 2005*):

767 (a) In this article:

768 (1) "Authenticate" means:

769 (A) To sign; or

770 (B) To execute or otherwise adopt a symbol, or encrypt or similarly
771 process a record in whole or in part, with the present intent of the
772 authenticating person to identify the person and adopt or accept a
773 record.

774 (2) "Cancellation" means an act by either party which ends a lease
775 contract because of a default by the other party.

776 (3) "Commercial unit" means a unit of goods which by commercial
777 usage is a single whole for purposes of lease and whose division
778 materially impairs its character or value in the relevant market or in

779 use. A commercial unit may be a single article, such as a machine; a set
780 of articles, such as a suite of furniture or a line of machinery; a
781 quantity, such as a gross or carload; or any other unit treated in use or
782 in the relevant market as a single whole.

783 (4) "Computer" means an electronic device that can perform
784 substantial computations, including numerous arithmetic operations
785 or logic operations, without human intervention during the
786 computation or operation.

787 (5) "Conforming" goods or conduct under a lease contract means
788 goods or performance that are in accordance with the obligations
789 under the contract.

790 (6) "Conspicuous", with reference to a term, means so written,
791 displayed or otherwise presented that a reasonable person against
792 which it is to operate ought to have noticed it. A term in an electronic
793 record intended to evoke a response by an electronic agent is
794 conspicuous if it is presented in a form that would enable a reasonably
795 configured electronic agent to take it into account or react without
796 review of the record by an individual. Conspicuous terms include the
797 following:

798 (A) With respect to a person:

799 (i) A heading in capitals in a size equal to or greater than, or in
800 contrasting type, font or color to, the surrounding text;

801 (ii) Language in the body of a record or display in larger or other
802 contrasting type, font or color or set off from the surrounding text by
803 symbols or other marks that call attention to the language; and

804 (iii) A term prominently referenced in an electronic record or
805 display which is readily accessible and reviewable from the record or
806 display; and

807 (B) With respect to a person or an electronic agent, a term or
808 reference to a term that is so placed in a record or display that the

809 person or electronic agent can not proceed without taking some action
810 with respect to the term or reference.

811 (7) "Consumer" means an individual who leases or contracts to lease
812 goods that, at the time of contracting, are intended by the individual to
813 be used primarily for personal, family or household purposes.
814 Personal, family or household use does not include professional or
815 commercial purposes, including agriculture, business management
816 and investment management, other than management of the
817 individual's personal or family investments.

818 (8) "Consumer lease" means a lease between a merchant lessor and a
819 consumer.

820 (9) "Delivery" means the voluntary transfer of physical possession or
821 control of goods.

822 (10) "Electronic" means relating to technology having electrical,
823 digital, magnetic, wireless, optical or electromagnetic capabilities or
824 similar capabilities.

825 (11) "Electronic agent" means a computer program or electronic or
826 other automated means used to initiate an action or to respond to
827 electronic messages or performances without intervention by an
828 individual at the time of the action or response.

829 (12) "Electronic message" means an electronic record or display
830 stored, generated or transmitted by electronic means for purposes of
831 communication to another person or electronic agent.

832 (13) "Electronic event" means an electronic authentication, message,
833 record or performance.

834 (14) "Finance lease" means a lease with respect to which:

835 (A) The lessor does not select, manufacture or supply the goods;

836 (B) The lessor acquires the goods or the right to possession and use
837 of the goods in connection with the lease or, in the case of goods that

838 have been leased previously by the lessor and are not being leased to a
839 consumer, in connection with another lease; and

840 (C) One of the following occurs:

841 (i) The lessee receives a copy of the agreement by which the lessor
842 acquired, or proposes to acquire, the goods or the right to possession
843 and use of the goods before authenticating the lease agreement;

844 (ii) The lessee's approval of the agreement or of the general
845 contractual terms under which the lessor acquired or proposes to
846 acquire the goods or the right to possession and use of the goods is a
847 condition to the effectiveness of the lease contract;

848 (iii) The lessee, before authenticating the lease agreement, receives
849 an accurate and complete statement designating the promises and
850 warranties, and any disclaimers of warranties, limitations or
851 modifications of remedies, or liquidated damages, including those of a
852 third party, such as the manufacturer of the goods, provided to the
853 lessor by the person supplying the goods in connection with or as part
854 of the contract by which the lessor acquired the goods or the right to
855 possession and use of the goods; or

856 (iv) If the lease is not a consumer lease, before the lessee
857 authenticates the lease agreement, the lessor informs the lessee in
858 writing:

859 (I) Of the identity of the person supplying the goods to the lessor,
860 unless the lessee has selected such person and directed the lessor to
861 acquire the goods or the right to possession and use of the goods from
862 such person;

863 (II) That the lessee is entitled under this article to the promises and
864 warranties, including those of any third party, provided to the lessor
865 by the person supplying the goods in connection with or as part of the
866 contract by which the lessor acquired the goods or the right to
867 possession and use of the goods; and

868 (III) That the lessee may communicate with the person supplying
869 the goods to the lessor and receive an accurate and complete statement
870 of such promises and warranties, including any disclaimers and
871 limitations of such promises and warranties, or a statement of
872 remedies.

873 [(15) "Good faith" means honesty in fact and the observance of
874 reasonable commercial standards of fair dealing.]

875 [(16)] (15) "Goods" means all things that are movable at the time of
876 identification to a lease contract or that are fixtures. The term includes
877 the unborn young of animals. The term does not include money in
878 which the rent is to be paid, the subject of foreign exchange
879 transactions, documents, letters of credit, instruments, investment
880 property, accounts, chattel paper or general intangibles, payment
881 intangibles or minerals, or the like, including oil and gas, before
882 extraction.

883 [(17)] (16) "Information processing system" means an electronic
884 system for creating, generating, sending, receiving, storing, displaying
885 or processing information.

886 [(18)] (17) "Lease" means the transfer of the right to possession and
887 use of goods for a period in return for consideration. The term includes
888 a sublease unless the context clearly indicates otherwise. The term does
889 not include a sale, including a sale on approval or a sale or return, or
890 retention or creation of a security interest.

891 [(19)] (18) "Lease agreement" means the bargain, with respect to the
892 lease, of the lessor and the lessee in fact as found in their language or
893 inferred from other circumstances, including course of performance,
894 course of dealing, or usage of trade as provided in this article. The
895 term includes a sublease agreement unless the context clearly indicates
896 otherwise.

897 [(20)] (19) "Lease contract" means the total legal obligation resulting
898 from the lease agreement as affected by this article and other

899 applicable law. The term includes a sublease contract unless the
900 context clearly indicates otherwise.

901 [(21)] (20) "Leasehold interest" means the interest of the lessor or the
902 lessee under a lease contract.

903 [(22)] (21) "Lessee" means a person that acquires the right to
904 possession and use of goods under a lease. The term includes a
905 sublessee unless the context clearly indicates otherwise.

906 [(23)] (22) "Lessee in ordinary course of business" means a person
907 that, in good faith and without knowledge that the person's lease is in
908 violation of ownership rights, a security interest or a leasehold interest
909 of a third party in the goods, leases in the ordinary course from a
910 person in the business of selling or leasing goods of that kind for cash
911 or by exchange of other property or on secured or unsecured credit,
912 including acquiring goods or documents of title under a preexisting
913 lease contract, but not including a transfer in bulk, or as security for or
914 in total or partial satisfaction of a money debt. The term does not
915 include a pawnbroker.

916 [(24)] (23) "Lessor" means a person that transfers the right to
917 possession and use of goods under a lease. The term includes a
918 sublessor unless the context clearly indicates otherwise.

919 [(25)] (24) "Lessor's residual interest" means the lessor's interest in
920 goods after expiration, termination or cancellation of a lease contract.

921 [(26)] (25) "Lien" means a charge against or interest in goods to
922 secure payment of a debt or performance of an obligation. The term
923 does not include a security interest.

924 [(27)] (26) "Lot" means a parcel or single article that is the subject
925 matter of a separate lease or delivery, whether or not it is sufficient to
926 perform the lease contract.

927 [(28)] (27) "Merchant lessee" means a lessee that is a merchant with
928 respect to goods of the kind subject to the lease.

929 [(29)] (28) "Present value" means the amount as of a date certain of
930 one or more sums payable in the future, discounted to the date certain.
931 In determining present value, the discount is determined by the
932 interest rate specified by the parties if the rate was not manifestly
933 unreasonable at the time the transaction was entered into. Otherwise,
934 the discount is determined by a commercially reasonable rate that
935 takes into account the facts and circumstances of each case at the time
936 the transaction was entered into.

937 [(30)] (29) "Receive" means:

938 (A) With respect to goods, to take delivery; or

939 (B) With respect to a notice:

940 (i) To come to a person's attention; or

941 (ii) To be delivered to and available at a location designated by
942 agreement for the purpose of notice, or, in the absence of an agreed
943 location:

944 (I) To be delivered at the person's residence, or the person's place of
945 business through which the contract was made, or at any other place
946 held out by the person as a place for the receipt of such notices; or

947 (II) In the case of an electronic record, to come into existence in an
948 information processing system in a form capable of being processed by
949 or perceived from a system of that type, if the recipient uses, has
950 designated or holds out that system as a place for the receipt of the
951 notices.

952 [(31) "Record" means information that is inscribed on a tangible
953 medium or that is stored in an electronic or other medium and is
954 retrievable in perceivable form.]

955 [(32)] (30) "Send" means, with any costs provided for and properly
956 addressed or directed as reasonable under the circumstances or as
957 otherwise agreed, to (A) deposit in the mail or with a commercially

958 reasonable carrier, (B) deliver for transmission to or creation in another
959 location or system, or (C) take the steps necessary to initiate
960 transmission to or creation in another location or system. In addition,
961 with respect to an electronic message, the term means to initiate
962 operations that in the ordinary course will cause the record to come
963 into existence in an information processing system in a form capable of
964 being processed by or perceived from a system of that type by the
965 recipient, if the recipient uses, has designated or holds out that system
966 or address as a place for the receipt of communications of the kind.
967 Receipt within the time in which it would have arrived if properly sent
968 has the effect of a proper sending.

969 [(33)] (31) "Sublease" means a lease of goods whose right to
970 possession and use is acquired by the lessor as a lessee under an
971 existing lease.

972 [(34)] (32) "Supplier" means a person from which a lessor buys or
973 leases goods to be leased under a finance lease.

974 [(35)] (33) "Supply contract" means a contract under which a lessor
975 buys or leases goods to be leased.

976 [(36)] (34) "Termination" means the ending of a contract or a part
977 thereof by an act by a party under a power created by agreement or
978 law, or by operation of the terms of the agreement for a reason other
979 than for a default by the other party.

980 (b) The following definitions in other articles apply to this article:

T14 "Account". Section 42a-9-102(a)(2).
T15 "Between merchants". Section 42a-2-104(3).
T16 "Buyer". Section 42a-2-103(1)(a), as amended by this act.
T17 "Chattel paper". Section 42a-9-102(a)(11).
T18 "Consumer goods". Section 42a-9-102(a)(23).
T19 "Document". Section 42a-9-102(a)(30).
T20 "Entrusting". Section 42a-2-403(3).
T21 "General intangible". Section 42a-9-102(a)(42).

T22 "Instrument". Section 42a-9-102(a)(47).
T23 "Merchant". Section 42a-2-104(1).
T24 "Mortgage". Section 42a-9-102(a)(55).
T25 "Pursuant to commitment". Section 42a-9-102(a)(68).
T26 "Sale". Section 42a-2-106(1).
T27 "Sale on approval". Section 42a-2-326(1)(a).
T28 "Sale or return". Section 42a-2-326(1)(b).
T29 "Seller". Section [42a-2-103(1)(d)] 42a-2-103(1)(c), as
T30 amended by this act.

981 (c) In addition, article 1 contains general definitions and principles
982 of construction that apply throughout this article.

983 Sec. 27. Subsection (a) of section 42a-2A-704 of the general statutes is
984 repealed and the following is substituted in lieu thereof (*Effective*
985 *October 1, 2005*):

986 (a) In accordance with section [42a-1-106] 17 of this act, the remedies
987 provided in this article must be liberally administered with the
988 purpose of placing the aggrieved party in as good a position as if the
989 other party had fully performed.

990 Sec. 28. Subsection (a) of section 42a-2A-721 of the general statutes is
991 repealed and the following is substituted in lieu thereof (*Effective*
992 *October 1, 2005*):

993 (a) Except as otherwise provided with respect to damages
994 liquidated in the lease agreement under section 42a-2A-710 or
995 otherwise determined by agreement of the parties under [subdivision
996 (3) of section 42a-1-102] section 14 of this act and section 42a-2A-711, if
997 a lessor elects to retain the goods or elects to dispose of the goods and
998 the disposition is by lease agreement that for any reason does not
999 qualify for treatment under subsection (b) of section 42a-2A-720 or is
1000 by sale or otherwise, the lessor may recover from the lessee as
1001 damages for a default of the type described in subsection (a) or
1002 subdivision (1) of subsection (c) of section 42a-2A-716 or, if agreed, for
1003 other default of the lessee:

1004 (1) Accrued and unpaid rent as of the date of default if the lessee
1005 has never taken possession of the goods, or, if the lessee has taken
1006 possession of the goods, as of the date the lessor repossesses the goods
1007 or an earlier date on which the lessee makes a tender of the goods to
1008 the lessor;

1009 (2) The present value, as of the date determined under subdivision
1010 (1) of this subsection, of the total rent for the then remaining period of
1011 the original lease agreement, minus the present value as of the same
1012 date of the market rent at the place where the goods are located
1013 computed for the same lease term; and

1014 (3) Any incidental or consequential damages allowed under section
1015 42a-2A-706 or 42a-2A-707, less expenses saved in consequence of the
1016 lessee's default.

1017 Sec. 29. Subsection (a) of section 42a-3-103 of the general statutes is
1018 repealed and the following is substituted in lieu thereof (*Effective*
1019 *October 1, 2005*):

1020 (a) In this article:

1021 (1) "Acceptor" means a drawee who has accepted a draft.

1022 (2) "Drawee" means a person ordered in a draft to make payment.

1023 (3) "Drawer" means a person who signs or is identified in a draft as
1024 a person ordering payment.

1025 [(4) "Good faith" means honesty in fact and the observance of
1026 reasonable commercial standards of fair dealing.]

1027 [(5)] (4) "Maker" means a person who signs or is identified in a note
1028 as a person undertaking to pay.

1029 [(6)] (5) "Order" means a written instruction to pay money signed by
1030 the person giving the instruction. The instruction may be addressed to
1031 any person, including the person giving the instruction, or to one or
1032 more persons jointly or in the alternative but not in succession. An

1033 authorization to pay is not an order unless the person authorized to
1034 pay is also instructed to pay.

1035 [(7)] (6) "Ordinary care" in the case of a person engaged in business
1036 means observance of reasonable commercial standards, prevailing in
1037 the area in which the person is located, with respect to the business in
1038 which the person is engaged. In the case of a bank that takes an
1039 instrument for processing for collection or payment by automated
1040 means, reasonable commercial standards do not require the bank to
1041 examine the instrument if the failure to examine does not violate the
1042 bank's prescribed procedures and the bank's procedures do not vary
1043 unreasonably from general banking usage not disapproved by this
1044 article or article 4.

1045 [(8)] (7) "Party" means a party to an instrument.

1046 [(9)] (8) "Promise" means a written undertaking to pay money
1047 signed by the person undertaking to pay. An acknowledgment of an
1048 obligation by the obligor is not a promise unless the obligor also
1049 undertakes to pay the obligation.

1050 [(10)] (9) "Prove" with respect to a fact means to meet the burden of
1051 establishing the fact. [, as defined in section 42a-1-201(8).]

1052 [(11)] (10) "Remitter" means a person who purchases an instrument
1053 from its issuer if the instrument is payable to an identified person
1054 other than the purchaser.

1055 Sec. 30. Subsection (c) of section 42a-4-104 of the general statutes is
1056 repealed and the following is substituted in lieu thereof (*Effective*
1057 *October 1, 2005*):

1058 (c) "Control" as provided in section [42a-106] 42a-7-106 and the
1059 following definitions in other articles apply to this article:

T31 "Acceptance". Section 42a-3-409.

T32	"Alteration". Section 42a-3-407.
T33	"Cashier's check". Section 42a-3-104.
T34	"Certificate of deposit". Section 42a-3-104.
T35	"Certified check". Section 42a-3-409.
T36	"Check". Section 42a-3-104.
T37	["Good faith". Section 42a-3-103.]
T38	"Holder in due course". Section 42a-3-302.
T39	"Instrument". Section 42a-3-104.
T40	"Notice of dishonor". Section 42a-3-503.
T41	"Order". Section 42a-3-103, <u>as amended by this act.</u>
T42	"Ordinary care". Section 42a-3-103, <u>as amended by this act.</u>
T43	"Person entitled to enforce". Section 42a-3-301.
T44	"Presentment". Section 42a-3-501.
T45	"Promise". Section 42a-3-103, <u>as amended by this act.</u>
T46	"Prove". Section 42a-3-103, <u>as amended by this act.</u>
T47	"Teller's check". Section 42a-3-104.
T48	"Unauthorized signature". Section 42a-3-403.

1060 Sec. 31. Subsection (a) of section 42a-4A-105 of the general statutes is
1061 repealed and the following is substituted in lieu thereof (*Effective*
1062 *October 1, 2005*):

1063 (a) In this article:

1064 (1) "Authorized account" means a deposit account of a customer in a
1065 bank designated by the customer as a source of payment of payment
1066 orders issued by the customer to the bank. If a customer does not so
1067 designate an account, any account of the customer is an authorized
1068 account if payment of a payment order from that account is not
1069 inconsistent with a restriction on the use of that account.

1070 (2) "Bank" means a person engaged in the business of banking and
1071 includes a savings bank, savings and loan association, credit union,
1072 and trust company. A branch or separate office of a bank is a separate
1073 bank for purposes of this article.

1074 (3) "Customer" means a person, including a bank, having an account
1075 with a bank or from whom a bank has agreed to receive payment
1076 orders.

1077 (4) "Funds-transfer business day" of a receiving bank means the part
1078 of a day during which the receiving bank is open for the receipt,
1079 processing, and transmittal of payment orders and cancellations and
1080 amendments of payment orders.

1081 (5) "Funds-transfer system" means a wire-transfer network,
1082 automated clearing house, or other communication system of a
1083 clearing house or other association of banks through which a payment
1084 order by a bank may be transmitted to the bank to which the order is
1085 addressed.

1086 [(6) "Good faith" means honesty in fact and the observance of
1087 reasonable commercial standards of fair dealing.]

1088 [(7)] (6) "Prove" with respect to a fact means to meet the burden of
1089 establishing the fact. [(Section 42a-1-201(8)).]

1090 Sec. 32. Subsection (a) of section 42a-4A-106 of the general statutes is
1091 repealed and the following is substituted in lieu thereof (*Effective*
1092 *October 1, 2005*):

1093 (a) The time of receipt of a payment order or communication
1094 cancelling or amending a payment order is determined by the rules
1095 applicable to receipt of a notice stated in [subsection (27) of section 42a-
1096 1-201] section 42a-1-202, as amended by this act. A receiving bank may
1097 fix a cutoff time or times on a funds-transfer business day for the
1098 receipt and processing of payment orders and communications
1099 cancelling or amending payment orders. Different cutoff times may
1100 apply to payment orders, cancellations, or amendments, or to different
1101 categories of payment orders, cancellations, or amendments. A cutoff
1102 time may apply to senders generally or different cutoff times may
1103 apply to different senders or categories of payment orders. If a
1104 payment order or communication cancelling or amending a payment

1105 order is received after the close of a funds-transfer business day or
1106 after the appropriate cutoff time on a funds-transfer business day, the
1107 receiving bank may treat the payment order or communication as
1108 received at the opening of the next funds-transfer business day.

1109 Sec. 33. Subsection (b) of section 42a-4A-204 of the general statutes is
1110 repealed and the following is substituted in lieu thereof (*Effective*
1111 *October 1, 2005*):

1112 (b) Reasonable time under subsection (a) of this section may be fixed
1113 by agreement as stated in subsection [(1) of section 42a-1-204] (b) of
1114 section 14 of this act, but the obligation of a receiving bank to refund
1115 payment as stated in subsection (a) of this section may not otherwise
1116 be varied by agreement.

1117 Sec. 34. Subsection (a) of section 42a-5-102 of the general statutes is
1118 repealed and the following is substituted in lieu thereof (*Effective*
1119 *October 1, 2005*):

1120 (a) In this article:

1121 (1) "Adviser" means a person who, at the request of the issuer, a
1122 confirmer or another adviser, notifies or requests another adviser to
1123 notify the beneficiary that a letter of credit has been issued, confirmed
1124 or amended.

1125 (2) "Applicant" means a person at whose request or for whose
1126 account a letter of credit is issued. The term includes a person who
1127 requests an issuer to issue a letter of credit on behalf of another if the
1128 person making the request undertakes an obligation to reimburse the
1129 issuer.

1130 (3) "Beneficiary" means a person who under the terms of a letter of
1131 credit is entitled to have its complying presentation honored. The term
1132 includes a person to whom drawing rights have been transferred
1133 under a transferable letter of credit.

1134 (4) "Confirmer" means a nominated person who undertakes, at the

1135 request or with the consent of the issuer, to honor a presentation under
1136 a letter of credit issued by another.

1137 (5) "Dishonor" of a letter of credit means failure timely to honor or
1138 to take an interim action, such as acceptance of a draft, that may be
1139 required by the letter of credit.

1140 (6) "Document" means a draft or other demand, document of title,
1141 investment security, certificate, invoice or other record, statement or
1142 representation of fact, law, right or opinion [(i)] (A) which is presented
1143 in a written or other medium permitted by the letter of credit or, unless
1144 prohibited by the letter of credit, by the standard practice referred to in
1145 subsection (e) of section 42a-5-108, and [(ii)] (B) which is capable of
1146 being examined for compliance with the terms and conditions of the
1147 letter of credit. A document may not be oral.

1148 [(7)] "Good faith" means honesty in fact in the conduct or transaction
1149 concerned and the observance of reasonable commercial standards of
1150 fair dealing.]

1151 [(8)] (Z) "Honor" of a letter of credit means performance of the
1152 issuer's undertaking in the letter of credit to pay or deliver an item of
1153 value. Unless the letter of credit otherwise provides, "honor" occurs
1154 [(i)] (A) upon payment, [(ii)] (B) if the letter of credit provides for
1155 acceptance, upon acceptance of a draft and, at maturity, its payment,
1156 or [(iii)] (C) if the letter of credit provides for incurring a deferred
1157 obligation, upon incurring the obligation and, at maturity, its
1158 performance.

1159 [(9)] (8) "Issuer" means a bank or other person that issues a letter of
1160 credit, but does not include an individual who makes an engagement
1161 for personal, family or household purposes.

1162 [(10)] (9) "Letter of credit" means a definite undertaking that satisfies
1163 the requirements of section 42a-5-104 by an issuer to a beneficiary at
1164 the request or for the account of an applicant or, in the case of a
1165 financial institution, to itself or for its own account, to honor a

1166 documentary presentation by payment or delivery of an item of value.

1167 [(11)] (10) "Nominated person" means a person whom the issuer [(i)]
1168 (A) designates or authorizes to pay, accept, negotiate or otherwise give
1169 value under a letter of credit, and [(ii)] (B) undertakes by agreement or
1170 custom and practice to reimburse.

1171 [(12)] (11) "Presentation" means delivery of a document to an issuer
1172 or nominated person for honor or giving of value under a letter of
1173 credit.

1174 [(13)] (12) "Presenter" means a person making a presentation as or
1175 on behalf of a beneficiary or nominated person.

1176 [(14)] "Record" means information that is inscribed on a tangible
1177 medium, or that is stored in an electronic or other medium and is
1178 retrievable in perceivable form.]

1179 [(15)] (13) "Successor of a beneficiary" means a person who succeeds
1180 to substantially all of the rights of a beneficiary by operation of law,
1181 including a corporation with or into which the beneficiary has been
1182 merged or consolidated, an administrator, executor, personal
1183 representative, trustee in bankruptcy, debtor in possession, liquidator
1184 and receiver.

1185 Sec. 35. Subsection (c) of section 42a-5-103 of the general statutes is
1186 repealed and the following is substituted in lieu thereof (*Effective*
1187 *October 1, 2005*):

1188 (c) With the exception of this subsection, subsections (a) and (d) of
1189 this section, subdivisions (8) and (9) [and (10)] of subsection (a) of
1190 section 42a-5-102, as amended by this act, subsection (d) of section 42a-
1191 5-106 and subsection (d) of section 42a-5-114, and except to the extent
1192 prohibited in [subsection (3) of section 42a-1-102] section 14 of this act
1193 and subsection (d) of section 42a-5-117, the effect of this article may be
1194 varied by agreement or by a provision stated or incorporated by
1195 reference in an undertaking. A term in an agreement or undertaking
1196 generally excusing liability or generally limiting remedies for failure to

1197 perform obligations is not sufficient to vary obligations prescribed by
1198 this article.

1199 Sec. 36. Subsection (g) of section 42a-5-108 of the general statutes is
1200 repealed and the following is substituted in lieu thereof (*Effective*
1201 *October 1, 2005*):

1202 (g) If an undertaking constituting a letter of credit under
1203 subdivision [(10)] (9) of subsection (a) of section 42a-5-102, as amended
1204 by this act, contains nondocumentary conditions, an issuer shall
1205 disregard the nondocumentary conditions and treat them as if they
1206 were not stated.

1207 Sec. 37. Subsection (a) of section 42a-8-102 of the general statutes is
1208 repealed and the following is substituted in lieu thereof (*Effective*
1209 *October 1, 2005*):

1210 (a) In this article:

1211 (1) "Adverse claim" means a claim that a claimant has a property
1212 interest in a financial asset and that it is a violation of the rights of the
1213 claimant for another person to hold, transfer or deal with the financial
1214 asset.

1215 (2) "Bearer form", as applied to a certificated security, means a form
1216 in which the security is payable to the bearer of the security certificate
1217 according to its terms but not by reason of an endorsement.

1218 (3) "Broker" means a person defined as a broker or dealer under the
1219 federal securities laws, but without excluding a bank acting in that
1220 capacity.

1221 (4) "Certificated security" means a security that is represented by a
1222 certificate.

1223 (5) "Clearing corporation" means:

1224 [(i)] (A) A person that is registered as a "clearing agency" under the
1225 federal securities laws;

1226 [(ii)] (B) A federal reserve bank; or

1227 [(iii)] (C) Any other person that provides clearance or settlement
1228 services with respect to financial assets that would require it to register
1229 as a clearing agency under the federal securities laws but for an
1230 exclusion or exemption from the registration requirement, if its
1231 activities as a clearing corporation, including promulgation of rules,
1232 are subject to regulation by a federal or state governmental authority.

1233 (6) "Communicate" means to:

1234 [(i)] (A) Send a signed writing; or

1235 [(ii)] (B) Transmit information by any mechanism agreed upon by
1236 the persons transmitting and receiving the information.

1237 (7) "Endorsement" means a signature that alone or accompanied by
1238 other words is made on a security certificate in registered form or on a
1239 separate document for the purpose of assigning, transferring or
1240 redeeming the security or granting a power to assign, transfer or
1241 redeem it.

1242 (8) "Entitlement holder" means a person identified in the records of
1243 a securities intermediary as the person having a security entitlement
1244 against the securities intermediary. If a person acquires a security
1245 entitlement by virtue of [section 42a-8-501(b)(2) or (3)] subdivision (2)
1246 or (3) of subsection (b) of section 42a-8-501, that person is the
1247 entitlement holder.

1248 (9) "Entitlement order" means a notification communicated to a
1249 securities intermediary directing transfer or redemption of a financial
1250 asset to which the entitlement holder has a security entitlement.

1251 (10) "Financial asset", except as otherwise provided in section 42a-8-
1252 103, means: [(i)] (A) A security; [(ii)] (B) an obligation of a person or a
1253 share, participation or other interest in a person or in property or an
1254 enterprise of a person, which is, or is of a type, dealt in or traded on
1255 financial markets, or which is recognized in any area in which it is

1256 issued or dealt in as a medium for investment; or [(iii)] (C) any
1257 property that is held by a securities intermediary for another person in
1258 a securities account if the securities intermediary has expressly agreed
1259 with the other person that the property is to be treated as a financial
1260 asset under this article. As context requires, the term means either the
1261 interest itself or the means by which a person's claim to it is evidenced,
1262 including a certificated or uncertificated security, a security certificate,
1263 or a security entitlement.

1264 [(11) "Good faith", for purposes of the obligation of good faith in the
1265 performance or enforcement of contracts or duties within this article,
1266 means honesty in fact and the observance of reasonable commercial
1267 standards of fair dealing.]

1268 [(12)] (11) "Instruction" means a notification communicated to the
1269 issuer of an uncertificated security which directs that the transfer of the
1270 security be registered or that the security be redeemed.

1271 [(13)] (12) "Registered form", as applied to a certificated security,
1272 means a form in which:

1273 [(i)] (A) The security certificate specifies a person entitled to the
1274 security; and

1275 [(ii)] (B) A transfer of the security may be registered upon books
1276 maintained for that purpose by or on behalf of the issuer, or the
1277 security certificate so states.

1278 [(14)] (13) "Securities intermediary" means:

1279 [(i)] (A) A clearing corporation; or

1280 [(ii)] (B) A person, including a bank or broker, that in the ordinary
1281 course of its business maintains securities accounts for others and is
1282 acting in that capacity.

1283 [(15)] (14) "Security", except as otherwise provided in section 42a-8-
1284 103, means an obligation of an issuer or a share, participation, or other

1285 interest in an issuer or in property or an enterprise of an issuer:

1286 [(i)] (A) Which is represented by a security certificate in bearer or
1287 registered form, or the transfer of which may be registered upon books
1288 maintained for that purpose by or on behalf of the issuer;

1289 [(ii)] (B) Which is one of a class or series or by its terms is divisible
1290 into a class or series of shares, participations, interests or obligations;
1291 and

1292 [(iii)] (C) Which:

1293 [(A)] (i) Is, or is of a type, dealt in or traded on securities exchanges
1294 or securities markets; or

1295 [(B)] (ii) Is a medium for investment and by its terms expressly
1296 provides that it is a security governed by this article.

1297 [(16)] (15) "Security certificate" means a certificate representing a
1298 security.

1299 [(17)] (16) "Security entitlement" means the rights and property
1300 interest of an entitlement holder with respect to a financial asset
1301 specified in part 5.

1302 [(18)] (17) "Uncertificated security" means a security that is not
1303 represented by a certificate.

1304 Sec. 38. Section 42a-8-111 of the general statutes is repealed and the
1305 following is substituted in lieu thereof (*Effective October 1, 2005*):

1306 A rule adopted by a clearing corporation governing rights and
1307 obligations among the clearing corporation and its participants in the
1308 clearing corporation is effective even if the rule conflicts with this
1309 article, section 13 of this act and sections [42a-1-105,] 42a-4-104(a), 42a-
1310 9-103a, 42a-9-105, 42a-9-106, 42a-9-115, 42a-9-116, 42a-9-203(1), 42a-9-
1311 301(1), 42a-9-302(1), 42a-9-304, 42a-9-305, 42a-9-306, 42a-9-309 and 42a-
1312 9-312 and affects another party who does not consent to the rule.

1313 Sec. 39. Subdivision (43) of subsection (a) of section 42a-9-102 of the
1314 general statutes is repealed and the following is substituted in lieu
1315 thereof (*Effective October 1, 2005*):

1316 (43) "Good faith" [means honesty in fact and the observance of
1317 reasonable commercial standards of fair dealing] has the same
1318 meaning as provided in subdivision (20) of subsection (b) of section
1319 42a-1-201, as amended by this act.

1320 Sec. 40. Section 1-1a of the general statutes is repealed and the
1321 following is substituted in lieu thereof (*Effective October 1, 2005*):

1322 Unless the context of any statute requires a different interpretation,
1323 all words and terms appearing in any statute and relating to security in
1324 personal property shall be construed to mean their counterparts in
1325 [subsection (37)] subdivision (35) of subsection (b) of section 42a-1-201,
1326 as amended by this act, and chapter 748. In particular "chattel
1327 mortgage", "conditional sale contract" or "lien" on personal property,
1328 except a lien of the type to which chapter 748 does not apply under
1329 subdivision (2) of subsection (d) of section 42a-9-109, shall be
1330 construed to mean "security interest"; "mortgagor" and "conditional
1331 vendee" shall be construed to mean "debtor"; "mortgagee" and
1332 "conditional vendor" shall be construed to mean "secured party".

1333 Sec. 41. Subsection (b) of section 1-268 of the general statutes is
1334 repealed and the following is substituted in lieu thereof (*Effective*
1335 *October 1, 2005*):

1336 (b) Sections 1-266 to 1-286, inclusive, do not apply to a transaction to
1337 the extent it is governed by:

1338 (1) A law governing the creation and execution of wills, codicils or
1339 testamentary trusts;

1340 (2) Except to the extent provided in section 1-281, as amended by
1341 this act, the Uniform Commercial Code, other than [sections 42a-1-107
1342 and 42a-1-206,] section 18 of this act and articles 2 and 2A of title 42a;
1343 or

1344 (3) Sections 47-10, 47-12, 47-12a, 47-14g, 47-14j, 47-14k, 47-15, 47-16,
1345 47-17, 47-18a and 47-19.

1346 Sec. 42. Subsection (d) of section 1-281 of the general statutes is
1347 repealed and the following is substituted in lieu thereof (*Effective*
1348 *October 1, 2005*):

1349 (d) Except as otherwise agreed, a person having control of a
1350 transferable record is the holder, as defined in subdivision [(20)] (21) of
1351 subsection (b) of section 42a-1-201, as amended by this act, or other
1352 similar law, of the transferable record and has the same rights and
1353 defenses as a holder of an equivalent record or writing under the
1354 Uniform Commercial Code, or other similar law, including, if the
1355 applicable statutory requirements under subsection (a) of section 42a-
1356 3-302 or section 42a-7-501 or 42a-9-308, or other similar law, are
1357 satisfied, the rights and defenses of a holder in due course, a holder to
1358 which a negotiable document of title has been duly negotiated or a
1359 purchaser, respectively. Delivery, possession and endorsement are not
1360 required to obtain or exercise any of the rights under this subsection.

1361 Sec. 43. Subparagraph (C) of subdivision (70) of section 12-81 of the
1362 general statutes is repealed and the following is substituted in lieu
1363 thereof (*Effective October 1, 2005*):

1364 (C) The state and the municipality and district shall hold a security
1365 interest, as defined in subdivision [(37)] (35) of subsection (b) of section
1366 42a-1-201, as amended by this act, in any machinery or equipment
1367 which is exempt from taxation pursuant to this subdivision, in an
1368 amount equal to the tax revenue reimbursed or lost, as the case may
1369 be, which shall be subordinate to any purchase money security
1370 interest, as defined in section 42a-9-103a. Such security interest shall be
1371 enforceable against the taxpayer for a period of five years after the last
1372 assessment year in which such exemption was received in any case in
1373 which the business organization ceases all business operations or
1374 moves its business operations entirely out of this state. Any assessor
1375 who has granted an exemption under this subdivision shall provide
1376 written notification to the secretary of the cessation of such operations

1377 or the move of such operations entirely out of this state. Such
1378 notification may be made at any time after the October first of the last
1379 assessment year in which such exemption is granted and before the
1380 September thirtieth that is five years after the conclusion of said
1381 assessment year. Upon receiving such notification and complying with
1382 the provisions of section 12-35a, the state shall have a lien upon the
1383 machinery or equipment situated in this state and owned by the
1384 person that ceased all business operations or moved such operations
1385 entirely out of this state. Notwithstanding the provisions of section 12-
1386 35a, the total amount of the reimbursement made by the state for the
1387 property tax exemptions granted to the person under the provisions of
1388 this subdivision, shall be deemed to be the amount of the tax which
1389 such person failed to pay. Notwithstanding said section 12-35a, the
1390 information required to be included in the notice of lien for said tax
1391 shall be as follows: (i) The owner of the property upon which the lien
1392 is claimed, (ii) the business address or residence address of such
1393 owner, (iii) the specific property claimed to be subject to such lien, (iv)
1394 the location of such property at the time it was last made tax-exempt
1395 pursuant to this subdivision, (v) the total amount of the
1396 reimbursement made by the state for the property tax exemptions
1397 granted to such owner under the provisions of this subdivision, and
1398 (vi) the tax period or periods for which such lien is claimed. If more
1399 than one agency of the state perfects such a notice of lien on the same
1400 day, the priority of such liens shall be determined by the time of day
1401 such liens were perfected, and if perfected at the same time, the lien for
1402 the highest amount shall have priority. In addition to the other
1403 remedies provided in this subdivision, the Attorney General, upon
1404 request of the secretary, may bring a civil action in a court of
1405 competent jurisdiction to recover the amount of tax revenue
1406 reimbursed by the state from any person who received an exemption
1407 under this subdivision.

1408 Sec. 44. Subparagraph (C) of subdivision (72) of section 12-81 of the
1409 general statutes is repealed and the following is substituted in lieu
1410 thereof (*Effective October 1, 2005*):

1411 (C) Any person claiming the exemption provided under this
1412 subdivision for machinery or equipment shall not be eligible to claim
1413 the exemption provided under subdivision (60) of this section or
1414 subdivision (70) of this section, as amended by this act, for the same
1415 machinery or equipment. The state and the municipality and district
1416 shall hold a security interest, as defined in subdivision [(37)] (35) of
1417 subsection (b) of section 42a-1-201, as amended by this act, in any
1418 machinery or equipment which is exempt from taxation pursuant to
1419 this subdivision, in an amount equal to the tax revenue reimbursed or
1420 lost, as the case may be, which shall be subordinate to any purchase
1421 money security interest, as defined in section 42a-9-103a. Such security
1422 interest shall be enforceable against the claimant for a period of five
1423 years after the last assessment year in which such exemption was
1424 received in any case in which such person ceases all manufacturing or
1425 biotechnology operations or moves such manufacturing or
1426 biotechnology operations entirely out of this state. Any assessor who
1427 has granted an exemption under this subdivision shall provide written
1428 notification to the secretary of the cessation of such operations or the
1429 move of such operations entirely out of this state. Such notification
1430 may be made at any time after the October first of the last assessment
1431 year in which such exemption is granted and before the September
1432 thirtieth that is five years after the conclusion of said assessment year.
1433 Upon receiving such notification and complying with the provisions of
1434 section 12-35a, the state shall have a lien upon the machinery or
1435 equipment situated in this state and owned by the person that ceased
1436 all business operations or moved such operations entirely out of this
1437 state. Notwithstanding the provisions of section 12-35a, the total
1438 amount of the reimbursement made by the state for the property tax
1439 exemptions granted to the person under the provisions of this
1440 subdivision, shall be deemed to be the amount of the tax which such
1441 person failed to pay. Notwithstanding said section 12-35a, the
1442 information required to be included in the notice of lien for such tax
1443 shall be as follows: (i) The owner of the property upon which the lien
1444 is claimed, (ii) the business address or residence address of such
1445 owner, (iii) the specific property claimed to be subject to such lien, (iv)

1446 the location of such property at the time it was last made tax-exempt
1447 pursuant to this subdivision, (v) the total amount of the
1448 reimbursement made by the state for the property tax exemptions
1449 granted to such owner under the provisions of this subdivision, and
1450 (vi) the tax period or periods for which such lien is claimed. If more
1451 than one agency of the state perfects such a notice of lien on the same
1452 day, the priority of such liens shall be determined by the time of day
1453 such liens were perfected, and if perfected at the same time, the lien for
1454 the highest amount shall have priority. In addition to the other
1455 remedies provided in this subdivision, the Attorney General, upon
1456 request of the secretary, may bring a civil action in a court of
1457 competent jurisdiction to recover the amount of tax revenue
1458 reimbursed by the state from any person who received an exemption
1459 under this subdivision. The following shall not be eligible for the
1460 exemption provided under this subdivision: (I) A public service
1461 company, as defined in section 16-1; and (II) any provider, directly or
1462 indirectly, of electricity, oil, water or gas.

1463 Sec. 45. Subdivision (12) of subsection (a) of section 12-407 of the
1464 general statutes is repealed and the following is substituted in lieu
1465 thereof (*Effective October 1, 2005*):

1466 (12) "Retailer" includes: (A) Every person engaged in the business of
1467 making sales at retail or in the business of making retail sales at
1468 auction of tangible personal property owned by the person or others;
1469 (B) every person engaged in the business of making sales for storage,
1470 use or other consumption or in the business of making sales at auction
1471 of tangible personal property owned by the person or others for
1472 storage, use or other consumption; (C) every operator, as defined in
1473 subdivision (18) of this subsection; (D) every seller rendering any
1474 service described in subdivision (2) of this subsection; (E) every person
1475 under whom any salesman, representative, peddler or canvasser
1476 operates in this state, or from whom such salesman, representative,
1477 peddler or canvasser obtains the tangible personal property that is
1478 sold; (F) every person with whose assistance any seller is enabled to
1479 solicit orders within this state; (G) every person making retail sales

1480 from outside this state to a destination within this state and not
1481 maintaining a place of business in this state who engages in regular or
1482 systematic solicitation of sales of tangible personal property in this
1483 state (i) by the display of advertisements on billboards or other
1484 outdoor advertising in this state, (ii) by the distribution of catalogs,
1485 periodicals, advertising flyers or other advertising by means of print,
1486 radio or television media, or (iii) by mail, telegraphy, telephone,
1487 computer data base, cable, optic, microwave or other communication
1488 system, for the purpose of effecting retail sales of tangible personal
1489 property, provided such person has made one hundred or more retail
1490 sales from outside this state to destinations within this state during the
1491 twelve-month period ended on the September thirtieth immediately
1492 preceding the monthly or quarterly period with respect to which such
1493 person's liability for tax under this chapter is determined; (H) any
1494 person owned or controlled, either directly or indirectly, by a retailer
1495 engaged in business in this state which is the same as or similar to the
1496 line of business in which such person so owned or controlled is
1497 engaged; (I) any person owned or controlled, either directly or
1498 indirectly, by the same interests that own or control, either directly or
1499 indirectly, a retailer engaged in business in this state which is the same
1500 as or similar to the line of business in which such person so owned or
1501 controlled is engaged; (J) any assignee of a person engaged in the
1502 business of leasing tangible personal property to others, where leased
1503 property of such person which is subject to taxation under this chapter
1504 is situated within this state and such assignee has a security interest, as
1505 defined in [subsection (37)] subdivision (35) of subsection (b) of section
1506 42a-1-201, as amended by this act, in such property; and (K) every
1507 person making retail sales of items of tangible personal property from
1508 outside this state to a destination within this state and not maintaining
1509 a place of business in this state who repairs or services such items,
1510 under a warranty, in this state, either directly or indirectly through an
1511 agent, independent contractor or subsidiary.

1512 Sec. 46. Subparagraph (A) of subdivision (15) of subsection (a) of
1513 section 12-407 of the general statutes is repealed and the following is
1514 substituted in lieu thereof (*Effective October 1, 2005*):

1515 (15) (A) "Engaged in business in the state" means and includes but
1516 shall not be limited to the following acts or methods of transacting
1517 business: (i) Selling in this state, or any activity in this state in
1518 connection with selling in this state, tangible personal property for use,
1519 storage or consumption within the state; (ii) engaging in the transfer
1520 for a consideration of the occupancy of any room or rooms in a hotel or
1521 lodging house for a period of thirty consecutive calendar days or less;
1522 (iii) rendering in this state any service described in any of the
1523 subparagraphs of subdivision (2) of this subsection; (iv) maintaining,
1524 occupying or using, permanently or temporarily, directly or indirectly,
1525 through a subsidiary or agent, by whatever name called, any office,
1526 place of distribution, sales or sample room or place, warehouse or
1527 storage point or other place of business or having any representative,
1528 agent, salesman, canvasser or solicitor operating in this state for the
1529 purpose of selling, delivering or taking orders; (v) notwithstanding the
1530 fact that retail sales are made from outside this state to a destination
1531 within this state and that a place of business is not maintained in this
1532 state, engaging in regular or systematic solicitation of sales of tangible
1533 personal property in this state by the display of advertisements on
1534 billboards or other outdoor advertising in this state, by the distribution
1535 of catalogs, periodicals, advertising flyers or other advertising by
1536 means of print, radio or television media, or by mail, telegraphy,
1537 telephone, computer data base, cable, optic, microwave or other
1538 communication system, for the purpose of effecting retail sales of
1539 tangible personal property, provided one hundred or more retail sales
1540 from outside this state to destinations within this state are made
1541 during the twelve-month period ended on the September thirtieth
1542 immediately preceding the monthly or quarterly period with respect to
1543 which liability for tax under this chapter is determined; (vi) being
1544 owned or controlled, either directly or indirectly, by a retailer engaged
1545 in business in this state which is the same as or similar to the line of
1546 business in which the retailer so owned or controlled is engaged; (vii)
1547 being owned or controlled, either directly or indirectly, by the same
1548 interests that own or control, either directly or indirectly, a retailer
1549 engaged in business in this state which is the same as or similar to the

1550 line of business in which the retailer so owned or controlled is
1551 engaged; (viii) being the assignee of a person engaged in the business
1552 of leasing tangible personal property to others, where leased property
1553 of such person is situated within this state and such assignee has a
1554 security interest, as defined in [subsection (37)] subdivision (35) of
1555 subsection (b) of section 42a-1-201, as amended by this act, in such
1556 property; and (ix) notwithstanding the fact that retail sales of items of
1557 tangible personal property are made from outside this state to a
1558 destination within this state and that a place of business is not
1559 maintained in this state, repairing or servicing such items, under a
1560 warranty, in this state, either directly or indirectly through an agent,
1561 independent contractor or subsidiary.

1562 Sec. 47. Subdivision (8) of section 14-165 of the general statutes is
1563 repealed and the following is substituted in lieu thereof (*Effective*
1564 *October 1, 2005*):

1565 (8) "Security interest" means a "security interest" as defined in
1566 subdivision [(37)] (35) of subsection (b) of section 42a-1-201, as
1567 amended by this act.

1568 Sec. 48. Section 14-167 of the general statutes is repealed and the
1569 following is substituted in lieu thereof (*Effective October 1, 2005*):

1570 This chapter does not apply to or affect: (1) A lien given by statute
1571 or rule of law to a supplier of services or materials for the vehicle; (2) a
1572 lien given by statute to the United States, this state or any political
1573 subdivision of this state; (3) a security interest in a vehicle created by a
1574 manufacturer or dealer who holds the vehicle for sale, but a buyer in
1575 [the] ordinary course of business, as defined in subdivision (9) of
1576 subsection (b) of section 42a-1-201, as amended by this act, takes free of
1577 the security interest, as stated in section 42a-9-320; or (4) a security
1578 interest in a vehicle that is inventory held for sale or lease by a person
1579 or leased by that person as lessor and that person is in the business of
1580 selling vehicles, as provided in subsection (d) of section 42a-9-311.

1581 Sec. 49. Subsection (c) of section 36a-770 of the general statutes is

1582 repealed and the following is substituted in lieu thereof (*Effective*
1583 *October 1, 2005*):

1584 (c) Definitions. As used in sections 36a-770 to 36a-788, inclusive, 42-
1585 100b and 42-100c, unless the context otherwise requires:

1586 (1) "Boat" means any watercraft, as defined in section 22a-248, other
1587 than a seaplane, used or capable of being used as a means of
1588 transportation on water, by any power including muscular.

1589 (2) "Cash price" means the total amount in dollars at which the seller
1590 and buyer agreed the seller would transfer unqualified title to the
1591 goods, if the transaction were a cash sale instead of a sale under a retail
1592 installment contract.

1593 (3) "Commercial vehicle" means any domestic or foreign truck or
1594 truck tractor of ten thousand or more pounds gross vehicular weight
1595 or any trailer or semitrailer designed for use in connection with any
1596 truck or truck tractor of ten thousand or more pounds gross vehicular
1597 weight and which is not used primarily for personal, family or
1598 household use.

1599 (4) "Filing fee" means the fee prescribed by law for filing, recording
1600 or otherwise perfecting and releasing or satisfying a security interest,
1601 as defined in subdivision [(37)] (35) of subsection (b) of section 42a-1-
1602 201, as amended by this act, retained or created by a retail installment
1603 contract or installment loan contract.

1604 (5) "Finance charge" means the amount in excess of the cash price of
1605 the goods agreed upon by the retail seller and the retail buyer, to be
1606 paid by the retail buyer for the privilege of purchasing the goods
1607 under the retail installment contract or installment loan contract.

1608 (6) "Goods" means (A) "consumer goods", as defined in subdivision
1609 (23) of subsection (a) of section 42a-9-102 and motor vehicles included
1610 under such definition, having an aggregate cash price of fifty thousand
1611 dollars or less, and (B) "equipment", as defined in subdivision (33) of
1612 subsection (a) of section 42a-9-102, having an aggregate cash price of

1613 sixteen thousand dollars or less, provided such consumer goods or
1614 such equipment is included in one retail installment contract or
1615 installment loan contract.

1616 (7) "Installment loan contract" means any agreement made in this
1617 state to repay in installments the amount loaned or advanced to a retail
1618 buyer for the purpose of paying the retail purchase price of goods and
1619 by virtue of which a security interest, as defined in subdivision [(37)]
1620 (35) of subsection (b) of section 42a-1-201, as amended by this act, is
1621 taken in the goods for the payment of the amount loaned or advanced.
1622 For purposes of this subdivision, "installment loan contract" does not
1623 include agreements to repay in installments loans made by the United
1624 States or any department, agency or instrumentality thereof.

1625 (8) "Lender" means a person who extends or offers to extend credit
1626 to a retail buyer under an installment loan contract.

1627 (9) A retail installment contract or installment loan contract is "made
1628 in this state" if: (A) An offer or agreement is made in Connecticut by a
1629 retail seller or a lender to sell or extend credit to a resident retail buyer,
1630 including, but not limited to, any verbal or written solicitation or
1631 communication to sell or extend credit originating outside the state of
1632 Connecticut but forwarded to and received in Connecticut by a
1633 resident retail buyer; or (B) an offer to buy or an application for
1634 extension of credit, or an acceptance of an offer to buy or to extend
1635 credit, is made in Connecticut by a resident retail buyer, regardless of
1636 the situs of the contract which may be specified therein, including, but
1637 not limited to, any verbal or written solicitation or communication to
1638 buy or to have credit extended, originating within the state of
1639 Connecticut but forwarded to and received by a retail seller or a lender
1640 outside the state of Connecticut. For purposes of this subdivision, a
1641 "resident retail buyer" means a retail buyer who is a resident of the
1642 state of Connecticut.

1643 (10) "Motor vehicle" means any device in, upon or by which any
1644 person or property is or may be transported or drawn upon a highway
1645 by any power other than muscular. For purposes of this subdivision,

1646 "motor vehicle" does not include self-propelled wheelchairs and
1647 invalid tricycles, tractors, power shovels, road machinery, implements
1648 of husbandry and other agricultural machinery, or other machinery
1649 not designed primarily for highway transportation but which may
1650 incidentally transport persons or property on a highway, or devices
1651 which move upon or are guided by a track or travel through the air.

1652 (11) "Retail buyer" means a person who buys or agrees to buy one or
1653 more articles of goods from a retail seller not for the purpose of resale
1654 or lease to others in the course of business and who executes a retail
1655 installment contract or an installment loan contract in connection
1656 therewith.

1657 (12) "Retail installment contract" means any security agreement, as
1658 defined in subdivision (73) of subsection (a) of section 42a-9-102, made
1659 in this state, including one in the form of a mortgage, conditional sale
1660 contract or other instrument evidencing an agreement to pay the retail
1661 purchase price of goods, or any part thereof, in installments over a
1662 period of time and pursuant to which a security interest, as defined in
1663 subdivision [(37)] (35) of subsection (b) of section 42a-1-201, as
1664 amended by this act, is retained or taken by the retail seller for the
1665 payment of the amount of such retail installment contract. For
1666 purposes of this subdivision, "retail installment contract" does not
1667 include a rent-to-own agreement, as defined in section 42-240, as
1668 amended by this act.

1669 (13) "Retail installment sale" means any sale evidenced by a retail
1670 installment contract or installment loan contract wherein a retail buyer
1671 buys goods from a retail seller at a time sale price payable in two or
1672 more installments. The cash price of the goods, the amount, if any,
1673 included for other itemized charges which are included in the amount
1674 of the credit extended but which are not part of the finance charge
1675 under sections 36a-675 to 36a-685, inclusive, and the finance charge
1676 shall together constitute the time sale price. For purposes of this
1677 subdivision, "retail installment sale" does not include a rent-to-own
1678 agreement, as defined in section 42-240, as amended by this act.

1679 (14) "Retail seller" means a person who sells or agrees to sell one or
1680 more articles of goods under a retail installment contract to a retail
1681 buyer.

1682 (15) "Sales finance company" means any person engaging in this
1683 state in the business, in whole or in part, of acquiring retail installment
1684 contracts from retail sellers or installment loan contracts from holders
1685 thereof, by purchase, discount or pledge, or by loan or advance to the
1686 holder of either on the security thereof, or otherwise.

1687 Sec. 50. Subsection (d) of section 42-221 of the general statutes is
1688 repealed and the following is substituted in lieu thereof (*Effective*
1689 *October 1, 2005*):

1690 (d) The consumer may waive a warranty required pursuant to this
1691 section only as to a particular defect in the vehicle which the dealer has
1692 disclosed to the consumer as being defective. No such waiver shall be
1693 effective unless such waiver: (1) Is in writing; (2) is conspicuous, as
1694 defined in subdivision (10) of subsection (b) of section 42a-1-201, as
1695 amended by this act, and is in plain language; (3) identifies the
1696 particular disclosed defect in the vehicle for which such warranty is to
1697 be waived; (4) states what warranty, if any, shall apply to such
1698 disclosed defect; and (5) is signed by both the customer and the dealer
1699 prior to sale.

1700 Sec. 51. Subdivision (4) of section 42-240 of the general statutes is
1701 repealed and the following is substituted in lieu thereof (*Effective*
1702 *October 1, 2005*):

1703 (4) "Rent-to-own agreement" means an agreement for the use of
1704 personal property by an individual primarily for personal, family or
1705 household purposes, for an initial period of four months or less,
1706 whether or not there is any obligation beyond the initial period, that is
1707 automatically renewable with each payment and that permits the
1708 consumer to become the owner of the property. Any rent-to-own
1709 agreement which complies with sections 42-240 to 42-253, inclusive,
1710 shall not be construed to be, nor be governed by the laws of this state

1711 regulating, any of the following:

1712 (A) A "retail installment contract" as defined in section 36a-770, as
1713 amended by this act;

1714 (B) A "security interest" as that term is defined in [section 42a-1-
1715 201(37)] subdivision (35) of subsection (b) of section 42a-1-201, as
1716 amended by this act.

1717 Sec. 52. Section 42-252 of the general statutes is repealed and the
1718 following is substituted in lieu thereof (*Effective October 1, 2005*):

1719 A lessor shall have the same obligations as a seller under [sections
1720 42a-1-203, 42a-2-302, subsection (b) of section 42a-2-103 and sections]
1721 section 16 of this act and sections 42a-2-302 and 42a-2-312 to 42a-2-318,
1722 inclusive, and the same obligations as a creditor under sections 36a-645
1723 to 36a-647, inclusive. Any rent-to-own agreement shall be subject to the
1724 provisions of section 52-572g.

1725 Sec. 53. Subsection (b) of section 42-391 of the general statutes is
1726 repealed and the following is substituted in lieu thereof (*Effective*
1727 *October 1, 2005*):

1728 (b) The following terms used in sections 42-270 to 42-271a, inclusive,
1729 and 42-390 to 42-434, inclusive, have the meanings ascribed in the
1730 Uniform Commercial Code:

T49 "Accession". Section 42a-9-102(a).

T50 "Agreement". Section [42a-1-201(3)] 42a-1-201(b), as
T51 amended by this act.

T52 "Contract". Section [42a-1-201(11)] 42a-1-201(b), as
T53 amended by this act.

T54 "Investment property". Section 42a-9-102(a).

T55 "Money". Section [42a-1-201(24)] 42a-1-201(b), as
T56 amended by this act.

T57 "Person". Section [42a-1-201(30)] 42a-1-201(b), as
T58 amended by this act.

T59 "Person related to". Section 42a-9-102(a).
T60 "Security interest". Section [42a-1-201(37)] 42a-1-201(b), as
T61 amended by this act.
T62 "Send". Section [42a-1-201(38)] 42a-1-201(b), as
T63 amended by this act.

1731 Sec. 54. Subsection (c) of section 47a-21 of the general statutes is
1732 repealed and the following is substituted in lieu thereof (*Effective*
1733 *October 1, 2005*):

1734 (c) Any security deposit paid by a tenant shall remain the property
1735 of such tenant in which the landlord and his successor shall have a
1736 security interest, as defined in [subsection (37)] subdivision (35) of
1737 subsection (b) of section 42a-1-201, as amended by this act, to secure
1738 such tenant's obligations. A security deposit shall be exempt from
1739 attachment and execution by the creditors of the landlord or his
1740 successor and shall not be considered part of the estate of the landlord
1741 or his successor in any legal proceeding. Any voluntary or involuntary
1742 transfer of a landlord's interest in residential real estate to a successor
1743 shall constitute an assignment to such successor of such landlord's
1744 security interest in all security deposits paid by tenants of such
1745 transferred residential real estate.

1746 Sec. 55. Subdivision (5) of section 53-129a of the general statutes is
1747 repealed and the following is substituted in lieu thereof (*Effective*
1748 *October 1, 2005*):

1749 (5) "Security interest" has the same meaning as specified in
1750 subdivision [(37)] (35) of subsection (b) of section 42a-1-201, as
1751 amended by this act.

1752 Sec. 56. Sections 42a-1-107, 42a-1-207, 42a-1-208, 42a-2-208 and 42a-
1753 2A-301 of the general statutes are repealed. (*Effective October 1, 2005*)

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2005</i>	42a-1-101
Sec. 2	<i>October 1, 2005</i>	42a-1-102
Sec. 3	<i>October 1, 2005</i>	42a-1-103
Sec. 4	<i>October 1, 2005</i>	42a-1-105
Sec. 5	<i>October 1, 2005</i>	42a-1-106
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	42a-1-201
Sec. 8	<i>October 1, 2005</i>	42a-1-202
Sec. 9	<i>October 1, 2005</i>	42a-1-203
Sec. 10	<i>October 1, 2005</i>	42a-1-204
Sec. 11	<i>October 1, 2005</i>	42a-1-205
Sec. 12	<i>October 1, 2005</i>	42a-1-206
Sec. 13	<i>October 1, 2005</i>	New section
Sec. 14	<i>October 1, 2005</i>	New section
Sec. 15	<i>October 1, 2005</i>	New section
Sec. 16	<i>October 1, 2005</i>	New section
Sec. 17	<i>October 1, 2005</i>	New section
Sec. 18	<i>October 1, 2005</i>	New section
Sec. 19	<i>October 1, 2005</i>	New section
Sec. 20	<i>October 1, 2005</i>	New section
Sec. 21	<i>October 1, 2005</i>	New section
Sec. 22	<i>October 1, 2005</i>	New section
Sec. 23	<i>October 1, 2005</i>	42a-2-103(1)
Sec. 24	<i>October 1, 2005</i>	42a-2-202
Sec. 25	<i>October 1, 2005</i>	42a-2-402(3)
Sec. 26	<i>October 1, 2005</i>	42a-2A-102
Sec. 27	<i>October 1, 2005</i>	42a-2A-704(a)
Sec. 28	<i>October 1, 2005</i>	42a-2A-721(a)
Sec. 29	<i>October 1, 2005</i>	42a-3-103(a)
Sec. 30	<i>October 1, 2005</i>	42a-4-104(c)
Sec. 31	<i>October 1, 2005</i>	42a-4A-105(a)
Sec. 32	<i>October 1, 2005</i>	42a-4A-106(a)
Sec. 33	<i>October 1, 2005</i>	42a-4A-204(b)
Sec. 34	<i>October 1, 2005</i>	42a-5-102(a)
Sec. 35	<i>October 1, 2005</i>	42a-5-103(c)
Sec. 36	<i>October 1, 2005</i>	42a-5-108(g)
Sec. 37	<i>October 1, 2005</i>	42a-8-102(a)
Sec. 38	<i>October 1, 2005</i>	42a-8-111
Sec. 39	<i>October 1, 2005</i>	42a-9-102(a)(43)
Sec. 40	<i>October 1, 2005</i>	1-1a
Sec. 41	<i>October 1, 2005</i>	1-268(b)

Sec. 42	<i>October 1, 2005</i>	1-281(d)
Sec. 43	<i>October 1, 2005</i>	12-81(70)(C)
Sec. 44	<i>October 1, 2005</i>	12-81(72)(C)
Sec. 45	<i>October 1, 2005</i>	12-407(a)(12)
Sec. 46	<i>October 1, 2005</i>	12-407(a)(15)(A)
Sec. 47	<i>October 1, 2005</i>	14-165(8)
Sec. 48	<i>October 1, 2005</i>	14-167
Sec. 49	<i>October 1, 2005</i>	36a-770(c)
Sec. 50	<i>October 1, 2005</i>	42-221(d)
Sec. 51	<i>October 1, 2005</i>	42-240(4)
Sec. 52	<i>October 1, 2005</i>	42-252
Sec. 53	<i>October 1, 2005</i>	42-391(b)
Sec. 54	<i>October 1, 2005</i>	47a-21(c)
Sec. 55	<i>October 1, 2005</i>	53-129a(5)
Sec. 56	<i>October 1, 2005</i>	Repealer section

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill, which makes a number of changes to Article 1 of the Uniform Commercial Code (UCC), has no fiscal impact on the state.

OLR Bill Analysis

sHB 6985

***AN ACT ADOPTING REVISED ARTICLE 1 OF THE UNIFORM
COMMERCIAL CODE CONCERNING GENERAL PROVISIONS*****SUMMARY:**

This bill changes the definitions and rules that apply throughout the Uniform Commercial Code (UCC). The UCC covers a number of topics including the sale of goods, leases, bank deposits and collections, and secured transactions. The bill's definitions and rules, as those in current law, do not apply if contrary or more specific ones are found in other parts of the UCC.

The bill:

1. makes changes in the choice of law provisions, including adding a rule that prohibits depriving consumers of certain legal protections;
2. modifies the rule established by federal law on electronic signatures;
3. adds provisions on the use of the "course of performance" in interpreting agreements between parties;
4. allows a waiver or renunciation in an authenticated record,
5. adds a provision on subordinated obligations;
6. deletes a general statute of frauds provision although others apply to specific types of UCC transactions;
7. adds some definitions and alters other; and
8. makes a number of technical changes.

The bill specifies that it applies to transactions to the extent they are governed by UCC provisions. It specifies that if any UCC provision or clause or an application of it to a person or circumstances is ruled

invalid, it does not affect other UCC provisions or applications that can be given effect without the invalid provisions or applications.

EFFECTIVE DATE: October 1, 2005

CHOICE OF LAW PROVISIONS

By law, when a transaction bears a reasonable relationship to this state and another state or nation, the parties can agree that this state's or the other state's or nation's law governs their rights and duties. The bill specifies that parties can agree to apply their choice of law to any or all of their rights and responsibilities.

If there is no agreement, current law applies Connecticut law to transactions with an appropriate relation to this state. Under the bill, Connecticut's conflict of laws principles apply to make the choice.

The bill provides an additional rule for transactions when one party is a consumer. Under the bill, applying the law of the state or country chosen or the law that applies absent an agreement cannot deprive a consumer of the protection of a legal rule governing a matter within the scope of these provisions that both protects consumers and cannot be varied by agreement in the state or country (1) where the consumer principally resides or (2) where the consumer makes the contract and takes delivery in a sale of goods, if it is not where he principally resided.

The bill specifies that an agreement is not effective to the extent that applying the law chosen by the parties is contrary to a fundamental policy of the state or country whose law would govern if there were no agreement.

As under current law, certain provisions in other UCC articles apply instead of these provisions.

E-SIGN

The federal Electronic Signatures in Global and National Commerce Act (E-SIGN) validates the use of electronic records and signatures (15 U.S.C. § 7001 et seq.). It applies to interstate and foreign commerce. Where E-SIGN conflicts with a state law, the federal law preempts state law. But a state provision can modify, limit, or supercede E-

SIGN's electronic contracting provisions if it provides alternative procedures or requirements for the use or acceptance of electronic records or signatures, is consistent with the federal law, does not require or accord greater legal status or effect to a specific technology, and specifically references the federal act.

The bill's provisions modify, limit, and supercede E-SIGN except for certain provisions on consumer disclosures (requiring consent for electronic delivery of disclosures the law requires to be in writing). It specifies that it does not authorize electronic delivery of court notices and certain notices regarding utility services, housing, health and life insurance, and product recalls.

COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF TRADE

The bill defines "course of performance" as a sequence of conduct between the parties to a particular transaction that exists if (1) their agreement for the transaction involves repeated occasions for performance by a party and (2) the other party, knowing the nature of performance and the opportunity to object to it, accepts or acquiesces to the performance without objection.

The bill adds that a course of performance (as well as the course of dealing and usage of trade under current law) can give meaning and supplement or qualify terms of an agreement between parties.

Under current law, course of dealing is a sequence of previous conduct between the parties to a particular transaction that is fairly regarded as establishing a common basis of understanding for interpreting their expressions and other conduct. The bill specifies that the conduct relates to previous transactions between the parties.

The bill also allows, rather than requires, a usage of trade applicable in the place where part of the performance is to occur to be used for that part of the performance. Under current law, usage of trade is a practice or method of dealing regularly observed in a place, vocation, or trade that justifies an expectation that it will be observed in the transaction. It can be found in a trade code or similar writing. The bill eliminates the writing requirement in that provision and instead requires a record (which the bill defines below).

As under current law, when it is not possible to construe the course of dealing or usage of trade as consistent with the agreement, the agreement's express provisions prevail. Under the bill, express provisions also prevail over a course of performance but the course of performance prevails over the course of dealing and usage of trade.

Under the bill, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance (but this is subject to the rules for modification, rescission, and waiver under the sale of goods law (UCC Article 2)).

WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH

The bill allows a waiver or renunciation to discharge a claim or right arising out of an alleged breach to be in an electronic form as well as in writing. The bill does so by requiring an authenticated record (defined as information inscribed on a tangible medium or stored in an electronic or other medium that can be retrieved in perceivable form) instead of requiring a written and signed agreement.

SUBORDINATED OBLIGATIONS

Under the bill, an obligation can be issued as subordinated to another obligation or a creditor can subordinate its right to performance of an obligation by agreeing with the obligated person or another creditor. The bill specifies that subordination does not create a security interest against either the debtor or the creditor.

STATUTE OF FRAUDS

The bill eliminates the statute of frauds for personal property other than for contracts for the sale of goods, securities, or security agreements. The deleted provision states that a contract for the sale of personal property is not enforceable beyond \$5,000 in amount or remedy unless there is a writing indicating a contract between the parties at a defined or stated price, reasonably identifying the subject matter, and signed by the party (or his authorized agent) against whom enforcement is sought.

Other UCC articles have statute of fraud rules (such as Article 2 for the sale of goods, Article 2A for leases, and Article 8 for sale of investment securities). Current law also provides a general statute of frauds that

prohibits civil actions to enforce an agreement unless the agreement or a memorandum of it is in writing and signed by the party against whom it is to be enforced (or the party's agent) for an agreement that is not to be performed within a year of its making, for a loan exceeding \$50,000, and certain other types of agreements.

DEFINITIONS

As under current law, the bill's definitions apply throughout the UCC unless an article includes a specific definition or the context requires otherwise. The bill provides that, the words and phrases it defines, or that are defined in other articles of the UCC that apply to particular articles or parts of them, have the meanings stated unless the context requires otherwise.

New Definitions

The bill defines a "consumer" as an individual who enters a transaction primarily for personal, family, or household purposes.

The bill defines a "record" as information inscribed on a tangible medium or stored in an electronic or other medium that can be retrieved in perceivable form.

Under the bill, "state" is a U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or a territory or insular possession subject to U.S. jurisdiction.

Changed Definitions

The bill specifies that the definition of "bank" includes a savings bank, savings and loan association, credit union, and trust company. As under current law, a bank is a person engaged in the business of banking.

Under the bill, a "defendant" includes a defendant in a third-party claim (a claim where the defendant brings in another party) as well as defendants in counterclaims and cross-claims as in current law.

Under current law, "fault" is a wrongful act, omission, or breach. The bill adds default to the list of items that is considered fault.

The bill expands the definition of “good faith” to include the observance of reasonable commercial standards of fair dealing, as well as honesty in fact.

The bill alters one part of the definition of “insolvent,” from someone who has ceased to pay his debts in the ordinary course of business to someone who has generally ceased to pay debts in the ordinary course of business other than because of a bona fide dispute.

It provides more specific examples of “person,” including a limited liability company, joint venture, government instrumentality, and public corporation. It eliminates a provision that an organization includes two or more people having a joint or common interest.

The bill makes the current definition of “present value” that applies for purposes of the definition of a security interest applicable generally throughout the UCC. “Present value” means the amount as of a certain date of one or more sums payable in the future, discounted by using (1) an interest rate specified by the parties if it is not manifestly unreasonable at the time of entering the transaction or (2) a commercially reasonable rate that accounts for facts and circumstances at the time of entering the transaction.

The bill specifies that “purchase” includes leases.

The bill alters the intent requirement in the definition of “sign.” Instead of using a symbol with intent to authenticate a writing, the bill requires the intent to adopt or accept the writing.

The bill adds secondary obligor to the definition of a “surety.” Current law is limited to guarantors.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0